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The Propagandist in the Public School

Who he is, what he is doing, and what the school authorities think of him.

BY DR. CLYDE R. MILLER
DIRECTOR, BUREAU OF EDUCATIONAL SERVICE, TEACHERS COLLEGE, COLUMBIA UNIVERSITY

MOST of the current outcry against propaganda has been directed against the public utilities, yet their publicity comprises but a small part of the propaganda problem which confronts every school administrator in the United States.

During the course of a year every large city school system receives not dozens nor scores but actually hundreds of requests or suggestions that the schools make use of books, pamphlets, and exhibits of various kinds put out by commercial organizations; that the course of study be expanded to include the promulgation of all manner of "reform movements," the teaching of various religious doctrines, and the inculcation of the larger patriotism represented by an amazing number of societies and organizations.

It is little wonder that many good people, disgusted by the obvious self-interest of a great many of the businesses, cults, and movements which attempt to use the schools and exploit teachers and children, would solve the problem by barring all propaganda from the public schools.

AMERICA'S public school system comprises one of the most powerful publicity media in the Na-

tion. "Get your story or your point of view or your gospel accepted by the present generation of school children and you will have most of them on your side when they become adults with salary envelopes and votes," observe the propagandists. Decades of propaganda against the use of alcohol comprised a major factor in the establishment of prohibition.

What a school executive is up against in this matter of propaganda is indicated by Dr. Edwin C. Broome, superintendent of schools, Philadelphia, in his report for the year 1928. He shows clearly that it is not merely the commercial concerns, organized for profit, which want to get their advertising into the schools, but faddists, reformers, and societies with axes to grind. He states:

> "Leif Ericson is thought to have been the first white man to set foot on American soil. We ought to erect a monument in his memory. A fine idea! Now, as this is a patriotic project of nation-wide interest, of course nobody will object to having the school children contribute. Our Norwegian citizens organize, hire a promoter, who requests the superintendent of schools to collect pennies from the children. He produces a letter signed by the President of the United States, or the secretary of state, commending the idea of erecting a national monument to Leif Ericson, and hints that any superintendent of schools who does not comply will be branded by his organization as un-American. As a further form of persuasion he says that they intend to put this inscription on the monument:
>
> ERECTED TO THE MEMORY OF
> LEIF ERICSON
> BY
> THE SCHOOL CHILDREN OF THE
> UNITED STATES
>
> "Each school that contributes will receive an engraved certificate to frame and hang on the wall. 'You don't want your schools to be the only ones without it,' he finally warns. If he refuses, the superintendent's record for Americanism is lowered 10 per cent.
>
> "Or, again a committee of gentlemen call on the superintendent. They represent the American Society for the Emancipation of Men. They are very earnest. They are plausible. Each is influential in the city. They desire permission to send speakers to all the schools to explain to the children the danger that threatens our Nation from over-feminization, and to appeal to them to advocate in their homes the equal rights of men. They are indignant when the superintendent suggests that the schools are intended to teach the children matters of general value to the community and not to spread the propaganda of any particular society.
>
> "On another day some representatives of the Horseshoers' Association call at the office. They are planning to celebrate the anniversary of the making of the first horseshoe in the city. There is to be a monster parade with ten thousand people in line and twenty bands. They would like five thousand children to parade, and a thousand to form a human horseshoe on the City Hall Plaza, all dressed in special costumes, to sing patriotic songs as the parade passes (two hours).
>
> "All the teachers will be expected to do is to make the costumes, and train the children in formation and singing, and look after the children on the day of the parade. Of course, all the schools are to be dismissed for the afternoon so that all the other children may witness the parade. This is to be an annual affair, 'Horse-Shoe Day.'
>
> " 'But,' pleads the superintendent, 'we already have twenty-five special days, and ten special weeks to cele-

The Alleged Subsidy of Our School Teachers—as Viewed by One of Them

THE daily newspapers have quoted me as saying, in substance, that public utilities publicity and publicity material from other organizations sometimes have genuine educational value, that such material sometimes is of real benefit in the classroom, that dangers in it may be obviated in schools where there is wisdom in selection and freedom of discussion, and that banning all publicity material from the classroom is not the best safeguard against that which is pernicious propaganda.

This news item resulted in an invitation to me from the editors of PUBLIC UTILITIES FORTNIGHTLY to write an article for this magazine. "This invitation," the editors wrote, "is extended to you without any restrictions or even suggestions concerning the point of view you take. Should you believe that our public utilities are making a mistake in sending out information to the public schools, or that the public schools are making improper use of this information, I should like to have you say so frankly. If you believe that our public schools derive some benefit from this information, I should like to have you say that, also."

This article is written in response to the editors' invitation.

—CLYDE R. MILLER

brate. When are we going to get in 'spelling day,' and 'arithmetic day,' and 'reading day,' and a 'let-'em-alone week?'" They leave in disgust; and the superintendent's record for Americanism is lowered again.

"Of course, these cases of exploitation and propaganda are fictitious, but they bear such close resemblance to cases with which every superintendent in a large community has had to deal that they are types that will easily be recognized."

LARGELY as a result of attacks on utilities publicity by newspapers, educators, and legislators, the Cleveland Board of Education in the spring of 1928 ordered a survey of publicity materials in use in the Cleveland public schools. When this study was completed it revealed approximately 2,500 separate items, which might be termed propaganda, in use in the schools, exclusive of propaganda which might have found its way into the regularly adopted text books. Simple listing of these items in double column single spaced mimeographed form filled a volume of 75 pages. Nearly every conceivable commercial activity as well as many of the "movements" for various reforms were represented. Turning over just a few pages of this amazing list we find spokesman for, and their printed matter or exhibits relating to, the following:

life insurance	baby chicks
banks	bananas
surgical instruments	batteries
soap	rubber tires
food manufacturers	natural gas
packing houses	bird cages
steamship lines	books
railroads	borax
autos	bonds
airplanes	telephones
milk	lathes
metal products	phonographs
World Peace	magazines
sewing machines	olives
cash registers	electric lights
hardware	carbon paper
silverware	carburetors
bricks	refrigerators

asbestos
lumber
real estate
cement
chicken feed
clocks
coffee
rugs
gears
compasses
biscuits
concrete
conditions in the Philippine Islands
slide rules
disks
drills
lead pencils
carpets
silk
child labor
chisels
chocolate
saws
tooth brushes
newspapers
construction paper
corn products
cotton
credit
express
dates
dairy products
safety pins
electrical service
engraving
fabrics

This is a fair sampling of what was found in one school system, and it may be remarked, in passing, that the Cleveland schools are regarded by educational authorities as being among the best in America.[1]

Most of this publicity material took the form of booklets and pamphlets. In addition there were discovered in use in the schools banking forms such as deposit slips and checkbooks from Cleveland banks; blotters from a score of concerns partial to blotter publicity; bookcovers bearing baking powder and shoe advertising; boxes and crates from eight business houses; calendars from nearly two score commercial organizations; fifty catalogs describing nearly as many commercial products; 130 charts bearing the imprint of as many business houses and revealing essential qualities or connotations of their products; all of the daily newspapers of Cleveland and a few from other cities; thirteen different kinds of pencils bearing firm imprints; twenty-eight pictures furnished *gratis* by various commercial companies, including the Bell Telephone Company; eight posters of similar nature; recipes by the dozen from baking powder manufacturers, gelatin makers, packing houses, and others; sixteen types of rulers with advertising matter on them; samples of dozens of products; and even free tickets to baseball games distributed, no doubt, to help make regular fans out of the school children of Cleveland.[2]

All of that and still more comprised

[1] Commenting on this material, Mr. John W. Love, writing in the *Cleveland Plain Dealer*, said:

"Memory goes back to the time when grammar and high school pupils were encouraged to write to business concerns for samples of their products and their descriptive literature. Anybody who has worked in the sales or advertising departments of a concern with a national reputation knows that the day scarcely went by when some teacher or student of geography did not write for a gratuitous shipment, sometimes enclosing stamps. The schools started it.

"To call the whole of the material propaganda and dump it all as waste paper would be to deprive the schools of much practical knowledge of the world of business. A better thing to do might be to inform the students that most of it is written from an interested, and some of it from a biased, point of view and warn him to make his own allowances. Pathetic, indeed, would be the state of a graduate thrown unprepared into a world of propaganda."

—THE EDITORS

[2] There is an amusing variety of subjects covered by the report in the January (1929) number of the *National Education Association Bulletin* on the survey made of the Cleveland school system. There was one pamphlet entitled "Better Potatoes." issued by a potash company. This pamphlet undertook to convince junior high school pupils of the necessity of eating only better potatoes. "Canary and Goldfish" was the subject of another pamphlet, issued by a local pet shop. It sets forth at some length the singing and companionate qualities of the canary and the beauty and winsomeness of goldfish.

—THE EDITORS

the findings. It is what you are certain to find not only in Cleveland but in practically every community in America.

Should all of this sort of stuff be kept out of the schools? Or should part of it be barred and part of it admitted? And what should be done about the propaganda of certain political, economic, and reform organizations which so gladly send speakers to the schools or get their propaganda into the officially adopted text-books by effective lobbying among legislators?

IT is the opinion of many educators that most of such items as are listed in the Cleveland report not only are not hurtful but are, on the contrary, of definite benefit in supplementing text books. They add to the knowledge of teachers and pupils and provide realistic contacts with the world for which the schools are preparing pupils.

Many school administrators and supervisors for years have been pointing out to the teachers the advantages of illustrative material furnished free of charge or at trifling cost by various commercial concerns.

In most cases these business houses have been willing to provide such material free or at cost because they believed the advertising involved would do them no harm and might be of some benefit to them.

In certain cases advertising managers have placed a high publicity value on school use of booklets, samples, and exhibits. The value to the schools has been important.

This has been recognized and pointed out by three investigators at Columbia University: Professor Maxie N. Woodring, of Teachers College; Mervin E. Oakes, assistant in natural science, Teachers College; and H. Emmet Brown, teacher of science, Lincoln School, Teachers College, Columbia University. Under their authorship has recently appeared a 374-page volume, published by the Bureau of Publications of Teachers College, Columbia, entitled "Enriched Teaching of Science in The High School"—a source book for teachers of general science, biology, physics, chemistry, and other sciences, listing chiefly free and cost illustrative and supplementary materials.

The volume contains 3,000 or more items most of which are of the same kind that the Cleveland survey revealed. They represent no material at all which is not of proven educational value.

JUSTIFYING the use of such material in the school are these sentences taken from the preface of the volume:

¶ "MANY *school administrators and supervisors for years have been pointing out to the teachers the advantages of illustrative material furnished free of charge or at trifling cost by various comercial concerns. . . . In certain cases advertising managers have placed a high publicity value on school use of booklets, samples, and exhibits. The value to the schools has been important.*"

"The increasing demand that school activities be related to the everyday life of pupils has resulted in the necessity of providing the means for investigation along the lines of individual interests. Consequently, in every high school subject there is an urgent need for an extensive guide to sources of supplementary and enrichment materials which may be obtained at low cost. This is particularly true in the field of science.

"Objection is sometimes raised to the using of free booklets, since they are likely to be of the nature of propaganda, which has come to mean biased fact and opinion. Much, however, that our pupils are reading in newspapers, magazines, advertisements, and even in books, is propaganda; and who better than the science teacher can train pupils 'to weigh and consider,' to demand facts, and to form their own conclusions based on evidence? Thus, entirely aside from the rich fund of facts that may be mined in them, free pamphlets present a challenging experience in living both to teacher and to pupil."

THE drastic measures advocated by some educators, by some newspapers and magazines, and by certain legislators would be likely to remove from the schools much supplementary and illustrative material of proven value of the sort listed in this Teachers College volume.

However, the outcry against public utilities propaganda was well justified by the reports that those utilities had subsidized educators and newspapers, had sought to color school texts, and had tried to prejudice pupils against public ownership. Things of this sort can no more be pardoned than the activities of Mr. William B. Shearer at Geneva as a paid representative of the ship-building companies.

I personally have seen only two instances of what might be construed to be attempts on the part of public utilities to propagandize in favor of private ownership. One was when a representative of one of the companies called to check up on textbooks in use in the Cleveland schools. He indicated that there was far too much matter in some of the school texts in favor of public ownership and that the situation ought to be changed and that the public utilities intended to change it. Another was in the booklet "Aladdins of Industry" which seemed to be a fairly effective exposition of the uses of electricity.

It did not offend, as I recall, save in one sentence or paragraph which stated that publicly owned utilities paid no taxes and which implied that the people really were better served by privately owned utilities.

I suspect that activities of public utilities propagandists have been much more obnoxious in communities less discriminating than Cleveland. Bad as those activities are, however, they appear no worse than those of other organizations including churches, wets, drys, peace advocates, war advocates, labor unions, open shop groups, political parties, and "reform" organizations.

To prohibit all propaganda in the schools would be silly and futile. The schools' duty is not to prohibit but to expose, label, and utilize for educational ends such propaganda as is germane to a sound education.

I have repeatedly pointed out that to set up an insulating wall between the school and the varied enterprises and opinions of the world would be infinitely worse than the present plan of studying this world in its activities of invention, production, commerce, banking, transportation, and evolution of opinion. To have all supplementary educational material pass through the same procedure of

Washington, D. C. Herald

A HEARST VIEW OF THE DOMINATION OF THE TEACHER AND TEXTBOOK WRITER BY THE "POWER TRUST"

The character of the campaign conducted by the powerful chain of Hearst newspapers against the electric light and power companies is epitomized in this cartoon by Fred Opper; the "Hired School Book Writer" and the "Hired College Professor" are represented among the subsidized moulders of public opinion.

selection that is ordinarily set up for text books, would be impracticable.

Today's newspaper or magazine may carry news articles, photographs, or editorials of large interest and value to certain classes. To wait for days or weeks to get formal approval for the use of these things would be to destroy most of their usefulness. Pupils ought to study about telephones, power plants, railroads, purification of milk, construction of roads and sewers, retail selling, office practice, and the thousand and one activities of the work-a-day world. Frequently the most accurate and timely information about these things comes from the concerns which create them. And in many instances, especially in the fields of business, science, and in fine arts, the best of regular textbooks are woefully lacking in illustrations of current practice and performance. Supplementary material is badly needed.

Of course, our schools must be on guard to prevent their misuse by interested persons and organizations, but, because there is possibility of such misuse when the schools are tied up, as they should be, with the myriad activities of the world we live in, is no reason for separating education from the world and confining it to an academic vacuum. If the schools are sincerely interested in discovering and disseminating the truth, if the world with its complex situations and problems is their field, and *if there is constant freedom of speech in the classroom discussion of these situations*

and problems, it can be safely predicted that precious little propaganda will run the gauntlet unexposed.

THE duty of the educator and teacher here becomes pretty much that of the newspaper as defined by Mr. C. P. Scott who recently retired as editor of the *Manchester Guardian.* He wrote:

> "Fundamentally, the conduct of a newspaper implies honesty, cleanness, courage, fairness, the sense of duty to the reader and the community. The newspaper's primary office is the gathering of news. At the peril of its soul it must see that the supply is not tainted. Neither in what it gives, nor in what it does not give, nor in the mode of presentation, must the unclouded face of truth suffer wrong. Comment is free, but facts are sacred. Propaganda, so-called, by this means is hateful. The voice of opponents, no less than that of friends, has a right to be heard. Comment also is justly subject to a self-imposed restraint. It is well to be frank. It is even better to be fair."

Application of the principle enunciated by Mr. Scott gives educators sure guidance in the matter of publicity and propaganda in the classroom. If there is a place in the course of study for discussion of private ownership by all means use the statements and arguments of the important advocates of it. Ask why they are for it. Let those who speak for public ownership have their word. Ask why they are for public ownership. Prohibition or religious topics should be treated in the same manner.

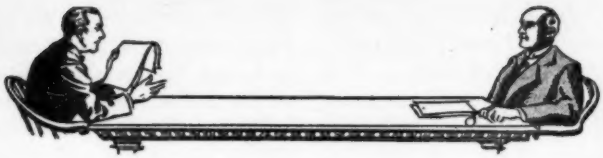
OPINIONS of business and professional workers and of public officials, if they are studied in the schools—and often they should be studied — should be regarded as opinions. But whether they are studied or not, whether this or that or the other thing gets into the curriculum, should be determined by the responsible school executives and teachers.

No law or wholesale ban against all publicity and propaganda can solve this problem; such a measure would harm the schools and cripple education.

The Public Utilities Furnished 1.8 Per Cent of the Propaganda Material to the Cleveland Schools

AN analysis of the survey made of the publicity material received by the Cleveland Public Schools, according to Mr. John W. Love, revealed that of the 2,224 booklets, pamphlets, and miscellaneous material that might properly be classified as "propaganda" only 40 items, representing 1.8 per cent, came from railroad, steamship, and public utility organizations. These 40 items, classified according to subject, were as follows:

Communications and railways	21
Gas and electricity	8
Geography and travel	2
Farming	2
Home Economics	2
Metals and metal products	1
Miscellaneous	4
TOTAL	40



When the Utilities Enter the Federal Courts

In view of the present agitation over the extent and character of the "interference" with Commission regulation by the U. S. Supreme Court, the actual record of appeals from Commission decisions (as set forth in the following article), and of the disposition of them, is as pertinent as it is illuminating.

NOTE: *All citations will be found together at the conclusion of this article*

BY HENRY C. SPURR

IN a previous article [1] attention has been called to how little foundation there is for the propaganda against the Federal courts on the theory that they are interfering with the regulation of public utility companies—even on the assumption that every decision of a Federal court is wrong. It was pointed out that, measured by the number of Federal court cases as compared with the total amount of Commission business, as well as by the practical effect of the Federal decisions upon the course of regulation, the "interference" of the Federal courts has been negligible.

The assumption that the Federal courts are always wrong is, of course, absurd on its face. That question would be manifestly debatable; and there is no superhuman authority to whom it could be referred for settlement.

The opponents of the utility companies would not take the position that the court is never right. The critics would hardly go so far as to assert that there has been any "interference" in favor of the utilities or corporate interests where the decisions of the courts have been against the contentions of the companies. For example, when the city of New York got a favorable decision of the Supreme Court in the 7-cent fare case, Mayor Walker was reported to have said he had great confidence in that court. The decision in that case could not be said to have been an obstruction to regulation.

A statement showing the infrequency of appeals to the Federal courts as compared either with appeals to the state courts or with the total amount of business done by the Commissions does not, therefore, tell the

whole story. In determining how far the Federal courts have "interfered" with regulation, state or Federal, it is first of all necessary to eliminate those cases in which the contentions of the utility companies have not been upheld by the courts.

As it is the Supreme Court of the United States which is being held responsible by the critics of regulation for the alleged interference, suppose we examine the decisions of that court which have been rendered since 1915. That will be going back far enough to give us a good picture of the situation. All of the leading cases of the court dealing with questions of regulation since that time have been printed in full in *Public Utilities Reports.*

Out of 154 cases reported, 86 were favorable to the contentions of the companies and 59 were adverse. There were a few modifications and a few decided on technical grounds and on questions in which the ratepayers had no direct interest. But 86, as stated, may be classified as in favor of the utilities and 59 against.

TABLE I, which accompanies this article, shows the number of cases involving utilities of various kinds, together with the number of wins and losses.

Two cases were modified and in seven cases the ratepayers' interest could not be said to be involved.

There have been well over 200,000 cases or applications,—some of them contested, some of them not—decided by the various state regulatory Commissions since 1915.

When we consider that not more than 154 cases involving utility regulation questions have been carried to the Supreme Court, we see how unsubstantial is the basis of the charge of "interference" by that court with the general stream of regulation. Certainly not a "multitude" of cases have been carried to the Supreme Court for the purpose of delaying and obstructing regulation.

DISPOSITION OF CASES

Companies	*No. of Cases*	*Company's Contention Upheld*	*Company's Contention Not Upheld*
Railroads	64	37	24
Street Railways	22	11	11
Gas	22	12	10
Telephone	11	9	0
Motor Transportation	9	4	2
Electric	8	3	4
Water	7	5	2
Boat Transportation	3	1	2
Pipe Lines	2	0	2
Cotton Ginning	2	1	1
Telegraph	1	1	0
Meat Packing	1	1	0
Sewer	1	0	1
Gasoline	1	1	0
Total	154	86	59

TABLE NO. I

THE answer to the claim of "interference" in favor of the utilities is, however, much stronger than that.

We must first subtract from the total number of cases the 59 decisions which were unfavorable to the contentions of the utilities. This leaves only 86 as compared with 200,000 Commission cases which by any possibility could be said to be examples of "interference" by the Supreme Court.

Moreover, in searching for "interference" we must now go a step further in our analysis. To emphasize the criticism in the United States Senate and elsewhere which has been

Utility Regulation Cases that Have Come before the Supreme Court

"THERE have been well over 200,000 cases or applications—some of them contested, some of them not—decided by the various state regulatory Commissions since 1915. When we consider that not more than 154 cases involving utility regulation questions have been carried to the Supreme Court, we see how unsubstantial the basis of the charge of 'interference' by that court with the general stream of regulation."

leveled against the so-called conservative members of the Supreme Court for their supposed leaning toward "property rights as opposed to human rights," or toward "corporate interests as opposed to the interests of utility ratepayers," certain minority members of the court, called "liberal" or "progressive" or "high minded" or "public spirited," have been given a clean bill of health. If, in the judgment of the critics of the court, the entire court could be brought up to the high level of liberalism shown by these justices, everything would be all right.

The critics, having singled these "liberal" justices out, and accepted them as their witnesses, or as examples of judicial wisdom in some cases, cannot very well impeach or discredit them in other cases. Therefore, we must examine the 86 Supreme Court cases favorable to the utility companies in order to determine whether there was any division of opinion in the court. If the so-called "liberal" justices agreed with their brethren, the opponents of the court ought to be satisfied that there was justification for the decisions.

Well, then, we find that of the 86 Supreme Court decisions favorable to the utilities, 60 were unanimous. In two or three of these one or another justice took no part. In one case a justice concurred in the result; but there were no dissenting opinions.

IT might be stated in passing that there are some opponents of the utility companies who would deny them access to the Federal courts if they could. But here we have a record of 60 unanimous decisions of the Supreme Court in favor of the contentions of utility companies, holding that they were entitled to the relief sought under the laws of the United States. This is some indication that the companies were justified in appealing to the court for protection; and that they did not enter the court for the mere purpose of defeating reasonable regulation. However, that is another story.

By eliminating the decisions unfavorable to the utility companies, and

the unanimous decisions favorable to the corporate interests, we find that there are only 26 decisions as compared with 200,000 Commission cases which have gone to the Supreme Court, since 1915, which the opponents of regulation can reasonably resort to in support of their contention that the court has "interfered" with regulation.

Let us examine these.

In several of the cases the majority of the court held that the dismissal of a case brought by a railroad company attacking Commission rates as confiscatory, on the ground of lack of proof, did not prevent the company from showing at a subsequent date that the rates were confiscatory;[2] that a statute which withholds from courts power to determine the question of confiscation according to their own judgment violates the due process clause of the Federal Constitution;[3] that a railroad can recover the amount of an undercharge for a passenger ticket notwithstanding the charge was made through a mistake of a railroad agent;[4] that a statute prohibiting the letting down of an unengaged and unoccupied upper berth in a sleeping car deprives the company of property contrary to law;[5] that an agreement between a railroad and a town to keep the station driveway "open for traffic to and from the station" did not give the town power to establish a public hack stand on the railroad property;[6] that a statute attempting to regulate the price of gasoline was unconstitutional for the reason that the sale of gasoline does not constitute a public utility business;[7] and that while the right of a utility operator granted a certificate by the state does not preclude the state from making valid grants to others, it is exclusive against any person attempting to compete without a permit or under color of a void permit, and that in either of which events the owner may ask a court of equity to restrain the illegal competition.[8]

It is plain that none of these cases involve fundamental questions of regulation which would be "interfered" with by the court's decision one way or the other.

Several of the cases decided by a divided vote of the Supreme Court involved the question of whether attempts at regulation by the states involved an interference with interstate commerce.[9] Obviously none of these cases could be cited as an interference with the principle of regulation, the question involved being merely whether the regulation should be by Federal or state authority. In all of these cases the Federal jurisdiction was upheld, and that certainly should not be a discordant note to the opponents of state regulation who favor Federal control.

One case involved the right of a state to fix local telephone rates notwithstanding the fact that the telephone system had been taken over by the Government of the United States as a war measure. The court held that the power of the Federal Government in the matter was supreme and that the advanced rates authorized by the Postmaster General were the legal rates.[10] This was not an interference with regulation any more than the cases involving the question of interstate commerce were. It might be well to notice that

as soon as the government obtained control of the telephone business it promptly raised the rates.

UP to the present time the experience has shown that the inclination of Federal authorities, whether in control of the utilities or merely regulating them, has been to increase rates over those fixed by the State Commissions.

For example, in one of the cases decided by a divided court it was held that the Interstate Commerce Commission has power to require interstate interurban railways to raise intrastate passenger fares which, the Commission finds, subject interstate commerce to unjust discrimination. The opinion in this case was written by Mr. Justice Brandeis; but there was a separate opinion by Mr. Justice McReynolds who concurred in the opinion of the lower court that street railroads are not within the Interstate Commerce Act.[11]

CASES involving the construction of franchise contracts to determine whether or not they are binding in a particular case cannot be said to involve any interference with regulation whether the decision of the Supreme Court is for or against the contention of either of the parties. It was the ratepayers who, in the first instance, insisted that these contracts were not binding as against the power of the state to lower rates. The rule, which sometimes works for and sometimes against either the ratepayers or the utilities, is undoubtedly a good one; otherwise the power of the state to regulate could easily be destroyed by contract.

In one case the question involved was whether fares fixed by municipal ordinance, a valid contract between a railroad company and a city, could be made applicable, without the consent of the company, to territory annexed to the city by subsequent acts of the legislature. The court held that they could not; that to do so would impair the obligations of the contract.[12]

In another case the sole controversy was whether the company was bound by a 5-cent fare franchise contract. It was conceded that the fare was noncompensatory. The majority of the court held that the Commission had taken jurisdiction, and that, therefore, franchise rates, subsequently inadequate, could be held confiscatory.[13]

It is not likely that the opponents of regulation could pick out any of the cases cited as examples of interference by the Supreme Court with the course of regulation. In determining what the nature of this so-called interference has been we have, therefore, only 11 cases to examine.

In one of these it was held that

¶ "THIS *analysis of the decisions forces one to the conclusion that the agitation against the Supreme Court, taken up enthusiastically by some of our political leaders, is based solely upon a handful of cases maintaining that utility companies are entitled to earn a return on the present value of their property, rather than the prudent investment in it.*"

the maximum statutory rates for the transportation of coal were confiscatory where so low as to compel the carrier to transport for less than cost or without substantial compensation. Valuation of the railroad property was not involved in this case.[14]

A CASE from West Virginia involved the validity of a 2-cent statutory passenger rate. It was held confiscatory by the majority of the court because it was clearly shown by the evidence that the company was compelled to carry passengers "if not at or below cost, with merely a nominal reward, considering the volume of traffic affected." This case did not involve valuation. The main question was whether losses on the passenger traffic could be thrown on the shoulders of the shippers.[15]

In the Denver Union Water Company Case the controversy was over water rates fixed by an ordinance. The evidence showed that the rates did not permit a reasonable return on the present value of the property if the property were valued as if the company were operating under a franchise which required it to serve even for a short time. The franchise in this case had expired, and the contention of the ratepayers was that the property should, therefore, be valued as "junk." In other words, it was argued that the company should be made to serve, and that the rates should be fixed on the "junk value" basis. This contention the majority of the court did not uphold. There was a dissenting opinion by Mr. Justice Holmes in which Mr. Justice Brandeis and Mr. Justice Clarke concurred. The substance of Mr. Justice Holmes' opinion, however, was that as a legal proposition the company had the right to discontinue service if it did not like the rates fixed by the ordinance. He, therefore, held that the company could not be deprived of its property under the circumstances. He did not maintain that the rate base could be fixed at the "junk value" of the property and the company made to serve on that basis.[16]

A case from Michigan involved the right of the city of Detroit to fix rates for street railway service, in territory in which the franchises had expired, so low as to amount to confiscation. The majority of the court held that the city could not do so, following the reasoning in the Denver Union Water Company Case just mentioned.[17]

In a California case, a lower Federal court decision dismissing a suit to enjoin the enforcement of an ordinance fixing gas rates was reversed by the Supreme Court on the ground of an error in valuation.[18]

None of these cases involved fundamental theories of rate making.

NOW we come to several cases all involving questions of valuation, all of them reaffirming the position which the Supreme Court has held for many years to the effect that present prices must be taken into consideration in valuation of utility property for rate-making purposes. These decisions need not be examined in detail. They involve a difference of opinion as to whether utility rates should be based upon prudent investment or upon the present value

The Actual Extent of the "Interference" in Commission Regulation by the Supreme Court

"By eliminating the decisions unfavorable to the utility companies, and the unanimous decisions favorable to the corporate interests, we find that there are only 26 decisions as compared with 200,000 Commission cases which have gone to the Supreme Court, since 1915, which the opponents of regulation can reasonably resort to in support of their contention that the court has 'interfered' with regulation."

of the property.[19] The question in three of these cases was whether due consideration had been given to present prices. In the Southwestern Bell Telephone Company Case Mr. Justice Brandeis, with whom Mr. Justice Holmes concurred, wrote a lengthy opinion holding that the rule in the Smyth *v.* Ames Case, that is to say the value rule, is legally and economically unsound.

In the O'Fallon Case it was held that the Federal statute directing the Interstate Commerce Commission in determining values of railway property for the purpose of recapturing excess earnings requiring the Commission to "give due consideration to all the elements of value recognized by the law of the land for rate-making purposes" is an express command and a carrier has the right to demand compliance with it to the extent that reproduction cost should be considered.

In the United Railways & Electric Company Case, which attracted considerable attention, only two questions were decided by the court. One was that a return of 6.26 per cent on the value of the company's property was confiscatory where it appeared that the company for a number of years had been compelled to borrow money at a rate of interest over 7 per cent. The other question decided was that annual depreciation should be based upon the value rather than the cost of the property.[20]

One case which has apparently not attracted much attention may be later cited as an evidence of the court's "interference" with state regulation. In this case the court held that a private motor carrier could not be required as a condition of operation in a state to subject itself to regulation as a common carrier.[21] This is important as it deals with the question whether a state as a condition of allowing a corporation to do business may force it in this indirect way to waive rights guaranteed by the Constitution of the United States.

This analysis of the decisions forces one to the conclusion that the agitation against the Supreme Court, taken up enthusiastically by some of our political leaders, is based solely upon a handful of cases maintaining that utility companies are entitled to earn a return on the present value of their

property, rather than the prudent investment in it. The Supreme Court is criticized because in these few cases it has applied a rule which was a panacea of the fathers of regulation, and which the ratepayers succeeded in getting established.

That is all there is to the charge of "interference," a mere difference of opinion as to what should constitute the rate base. That there is room for a difference of opinion, the advocates of the investment theory must concede.

But the decisions of the court are said to be wrong; regulation is said to have gone to smash; the utilities are said to be resorting to the Federal courts, thus creating a flood of Federal litigation. The fact that 200,000 cases have proceeded smoothly is nothing as compared with the handful of cases in which this disputed question as to the rate base is passed upon, and decided adversely to the views of some persons.

Is this "interference" claim not a little bit presumptuous?

Of course, the answer of the prudent investment school would be that the rate base question transcends everything else. We shall not discuss that here. It is a story by itself. It is enough for our present purpose to call attention to the fact that the present agitation against the Supreme Court is grounded solely on the academic question of whether rates should be based on present investment in utility property or on the value of that property, and that only an insignificant number of cases involving that question have been taken to the Supreme Court.

One misrepresentation at least stands exposed. That is the statement that there has been a flood of Federal court cases, obstructing the stream of state regulation.

Perhaps it might be well to enquire to what extent the electric companies, component parts of the so-called "power trust" which are at present bearing the brunt of the political offense against the utility industry directly, and against the Supreme Court and the State Commissions indirectly, have been guilty of "interfering with regulation" by appealing to the Supreme Court. By reference to the table it will be seen that of the 8 electric cases out of the 154 decisions of the Supreme Court referred to, the companies were upheld in 3 decisions and defeated in 4.

In only 3 Supreme Court cases since 1915 could it, therefore, possibly be said that the electric companies have succeeded in "interfering with regulation."

One of these cases involved the right of the Georgia Commission to fix a higher rate for electricity than that in a private contract between the electric company and a consumer. The Supreme Court upheld the right of the Commission to establish a new rate notwithstanding the existing contract.[22]

In another case a confiscatory ordinance rate was held void. It was admitted that the rates were confiscatory. The laws of the state expressly provide that the right or power to regulate should not be abridged by contract.[23]

In a Kansas case it was held that an express finding of unreasonable-

ness of existing contract rates is indispensable under the Kansas laws as a prerequisite to an order increasing rates beyond the maximum fixed in the contract. Two electric companies were involved in this case. Ratepayers were only indirectly involved.[24]

A case from Ohio involved gas and electric rates, and the Commission order fixing rates was reversed by the Supreme Court because of an error in valuation.[25]

In all of these cases, however, the decisions of the Supreme Court were unanimous, and could not, therefore, with good grace on the part of the opponents of regulation be classified as an interference with it.

THE charge that utility companies are rushing into the Federal courts to defeat regulation is, of course, not borne out by the facts; and this is especially true of the electric companies, whose appeals to the Federal courts have been very infrequent and who have not been responsible for any of the Supreme Court decisions which have come in for so much criticism by the advocates of the prudent investment theory.

The belief entertained by some persons that the Supreme Court has interfered with regulation in recent years must rest, it has been shown, on the few cases in which rates were in question, and in which there were disagreements among the members of the court upon the questions involved.

A conclusion that the minority justices of the Supreme Court are right, and the majority wrong is, of course, very weak. Every one has the right to such an opinion to be sure, but it is after all only an opinion; and one man's opinion is as good as another's until there is some better means than has as yet been invented of demonstrating its soundness.

Statements to the effect that Commission regulation has broken down or has become a farce, for the mere reason that the Supreme Court has held that utility companies are entitled to earn a return on the value of their property rather than on the prudent investment, even if rate making were the only function of the Commissions, are unsound, because based upon a debatable major premise.

Surely the advocates of the prudent investment theory must allow others the same liberty of opinion that they themselves possess. Certainly they must admit that the opinion in favor of the investment theory is not unanimous. The division of opinion in the Supreme Court is sufficient proof of that. What then becomes of a conclusion that regulation has broken down, based upon a premise that is not universally accepted as true?

The conclusion that the Supreme Court has "interfered" with regulation, or that regulation has broken down or has become a farce because the Supreme Court refuses to adopt

¶ "UP *to the present time the experience has shown that the inclination of Federal authorities, whether in control of the utilities or merely regulating them, has been to increase rates over those fixed by the State Commissions.*"

the "investment" theory of rate making, has neither logic nor facts to support it.

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¶ A STRANGER *had been watching the efforts of three laborers from afar. He approached the first and inquired as to what he was doing. With a grunt he said:*

"I am working for $6 a day."

To the second laborer he directed the same query; he received the reply:

"I am laying stone."

To the third man the stranger addressed the same inquiry. For a moment the laborer hesitated; his eyes flashed and his face beamed satisfaction as he said:

"Sir, I am building a cathedral."

I know of no industry, other than the utility industry, in spite of the change of the day, which can still say with much satisfaction:

"Sir, we are building a community."

—JOHN E. CURTISS

Getting the Tax Without Being Blamed for It

We have read a Burgess Bedtime Story which might well serve as an illustration for a lesson in economics.

It seems that Peter Rabbit was sitting near the Laughing Brook watching a favorite pool for trout. Many a nice trout had been taken out of that pool by Farmer Brown's boy, by Billy Mink, Little Joe Otter, and others. But fishing had been very bad of late and nobody seemed to know why.

As Peter watched he saw Mrs. Watersnake crawl up for a sun bath on a great flat rock at one side of the pool. After a while Peter saw Mrs. Watersnake slip back into the water and shortly afterwards crawl back again upon the rock. In her mouth was a nice young trout. The fish disappeared down Mrs. Watersnake's throat.

It wasn't long before Mrs. Watersnake again glided into the water and again came up with a trout which she disposed of in the same way.

Peter Rabbit reasoned that as the Watersnake family was a large one, this might be one cause of the scarcity of fish in the Laughing Brook. He also considered that since these snakes were seldom seen they could get most of the fish in a brook without anyone knowing it.

"They might," reflected Peter, "get the fish, and others get the blame."

That is what often happens in the case of taxation. The government gets the fish while someone else gets the blame.

A tax, for example, is levied against a rented house. The tenant, however, pays the tax, but pays it indirectly in the shape of rent. The landlord collects the amount of the tax and turns it over to the city. The landlord gets the blame.

It is the same with utility taxes. They are paid by the customers of the utility companies; but as the utilities act as the collectors, they usually get the blame.

Recently we saw this statement in a newspaper:

> "The city of Colby, Kansas, again votes not to tax anybody or any property, real or personal, in the city.
>
> "Colby owns its power, light, and water plant. Profits, which go to the city, make taxes unnecessary."

There can be, of course, no such thing as a taxless city, if the city has a government. The amount of the tax is measured by the expenditures for the purposes of the government. They must be paid. There is no escape.

If Colby has any city officials or employees, taxation is not unnecessary. If Colby can support its government in the way suggested it is a case of getting the fish without being blamed for it.

Henry C. Spurr

Why Not Regulate Investment Instead of Return?

A New Approach to the Problem of Utility Control

By BRUCE W. KNIGHT
PROFESSOR OF ECONOMICS, DARTMOUTH COLLEGE
With an introduction by
JAMES C. BONBRIGHT
PROFESSOR OF ECONOMICS, COLUMBIA UNIVERSITY

THE general point of view which Mr. Knight presents is important because it brings out an aspect of the monopoly problem that has secured but little attention in public discussions. This aspect concerns the supposed tendency of an unregulated monopoly to violate the public interest not alone by raising prices above the proper competitive level, but also by unduly curtailing the supply of the commodities or services which it sells. Indeed, as economists have pointed out, these two things really go together, since the power of the monopolist to charge unfair prices is supposedly exercised by his power to reduce output and thereby to increase the unit price at which this output can be marketed.

THE great advantage of competition in the eyes of the classical economist is the two-fold one that it results at one and the same time in the charging of the most economically reasonable prices and in the most desirable allocation of the capital resources of the country to the different industries. This latter benefit is supposed to result from the fact that competition will attract capital into those industries which are relatively underdeveloped in relation to the demand for service, and will withdraw capital from those industries which are relatively overdeveloped. The device by which this apportionment and reapportionment of capital is presumed to take place is the device of the differential rate of prof-

its as between the overdeveloped and the underdeveloped industries.

For example:

If there is an excessive investment in the manufacture of shoes but an insufficient investment in the manufacture of motion pictures, profits in the shoe industry will be too low to attract capital, whereas profits in the film industry will be so high that they will lure investors to embark their funds in this underdeveloped field.

Having in mind these general principles which have been expounded at length by the classical economist, Mr. Knight reaches the conclusion that there is something fundamentally wrong with the existing theory of public utility regulation because it attempts to cure only one of the evils of uncontrolled monopoly without striking at the roots of the other evil. The trouble, he thinks, lies in the accepted doctrine that public utilities should be regulated largely if not entirely by an arbitrary limitation upon their rate of return rather than by a control of the amount of their capital investments.

The result of this doctrine, Mr. Knight feels, is that, in attempting to regulate merely the prices of utility service, the government fails to tackle the even more important problem of getting a proper balance between the amount of capital invested in different public utilities and the amount of capital invested in competitive industry. The consequence of a mere control of utility prices based on a doctrine of a reasonable rate of return is that underdeveloped utility enterprises will remain underdeveloped since they are not encouraged to grow by the opportunity of securing an abnormally high rate of profits; whereas overdeveloped utilities will be encouraged to remain overdeveloped because they are permitted to charge such rates for their service as will yield them a normal competitive rate of return on their redundant capital investment.

I HAVE restated at some length what I understand to be Mr. Knight's argument because the critical comments that follow are based on this understanding. In the event, therefore, that I have misconceived Mr. Knight's position he will be able to discount my critical comments by showing that they are based on a mistaken construction of his own point of view.

Recognizing fully the force of the argument that the monopoly problem is not merely one of controlling prices but also one of securing a proper balance between capital investment inside and outside of any given monopoly, I am still not convinced that the practical conclusions which Mr. Knight draws offer either so serious an indictment of the existing theory of public utility control or such a promising alternative to this theory as he seems to believe.

To put the matter in other words, I do not think that the tendency of existing regulation to distort the balance between investments in different utility enterprises and investments in other industries is as serious as his article suggests; nor do I believe that the proposals for a regulation of utility investments would cure such lack of balance as now prevails.

ON the first point, the assumed tendency of the so-called "fair re-

turn" doctrine to maintain or even to increase the evil of overinvestment and underinvestment, I think that this tendency has been exaggerated in Mr. Knight's article.

Perhaps the electric light and power industry may serve as the best illustration of a case of underinvestment, whereas the street railway industry may serve as the best illustration of the case of an overinvestment. Few persons, however, would contend that this situation has been caused by an economically fallacious doctrine of price fixing based on the theory of the fair return.

So far as concerns the electrical industry, the relative underinvestment is due, not to the limitation which government places on the rate of return which this industry may earn, but rather to the tremendous growth in the demand for power and in the technical facilities of the electric power companies for supplying this demand at a low cost. The resulting gap between demand and supply is being filled with astonishing rapidity, as anyone knows who has studied the statistics as to the growth of capital investment in the electrical power business.

On the other hand, the relative overinvestment in the street railway field has been due primarily to the development of other, more satisfactory forms of local transportation such as bus service, private motor cars, and subway service. This situation has resulted in making the electric railway industry of the country an overinvested field in the sense that the continuance of many of these railway lines is no longer justified on economic grounds; and many of them will sooner or later be abandoned, as indeed some of them already have been.

❦

¶ WHY *can a monopoly in electric lighting or street railways lower the prices of wheat or butter? Why can consumers as a whole suffer from such a lowering of prices?*

These are two homely examples of an economic question treated here by two able economists. Confining himself to utility regulation, Mr. Knight claims that most of our troubles come from our failure to consider the relation of capital investment to service rendered. He suggests a novel and apparently simple alternative—instead of regulating simply the return—regulate the investment.

PROFESSOR BONBRIGHT, *in his sympathetic analysis of* MR. KNIGHT'S *critique of the fair return doctrine, differs with him, not only on the practicability of regulating utility investment, but also as to whether it is worth bothering about.*

—THE EDITORS

Both of these situations, that of the underdeveloped electric power industry and of the overdeveloped electric railway industry, would have occurred no matter what scheme of control over rates or over investments might have been adopted. They would certainly not have been prevented under Mr. Knight's suggestions, and I doubt very much whether they would even be materially remedied by the scheme of control that he sponsors.

MR. Knight might argue, perhaps, that the unbalanced capital investments in the electric power and in the street railway industries might be made to disappear more rapidly under a scheme of control which, on the one hand, would permit the former industry to earn a very alluring rate of profit, say ten or twelve per cent, and which, on the other hand, would force the electric railways to charge such low fares that the process of scrapping and abandonment of the railway lines would be hastened. The wisdom of this policy, however, would be subject to very grave doubts. So far as concerns the electric power industry, its growth has already been so rapid that many thoughtful students are inclined to believe that a somewhat slower rate of development would be desirable. Extreme rapidity of development makes for ill-conceived and uneconomic planning, and there is some evidence that this tendency is becoming serious in the recent development of electrical industries.

On the other hand, the abandonment of street railway lines has already been so rapid that the wisdom of accelerating this movement is highly doubtful. Mr. Knight is too able a student of economics to overlook the fact that economic adjustments, even where they are desirable in the long run, should not be made too hastily. Indeed, he himself takes pains to point this out in his own discussion.

FROM the theoretical angle, I wonder whether Mr. Knight's objection to the doctrine of a fair return may not be based on the assumption that this "fair" rate is simply such a rate as will represent the point of indifference to investors between embarking their capital in a utility enterprise and embarking their capital elsewhere. As a matter of fact, the fair rate is a far more elastic thing than this.

Properly conceived (although it is true that the courts do not always thus conceive it) a "fair" rate of return is simply such a rate as will attract capital to the enterprise in question with the rapidity that is deemed to be socially desirable.

If the electrical industry today is being developed too rapidly, that tendency can be corrected by reducing the rate of return and thus curtailing the flow of capital into this field.

If, on the other hand, the rate is not rapid enough, the difficulty can be met by an increase in the rate of return.

One may argue, to be sure, that no one, certainly not the Utility Commissions or the courts, is wise enough to decide just what is the proper rate of flow and just what is the proper rate of return to secure this flow. This

argument has force, but it raises a difficulty in human judgment which Mr. Knight's own plan by no means solves.

I doubt very much whether human judgment in this matter, fallible as it is, is any more fallible than is the so-called automatic control of flow of investments which goes on in the competitive field.

THERE is another point of economic theory which adds to the doubt that I have as to the solution suggested by Mr. Knight. It lies in the assumption which Mr. Knight makes, in common with most classical economists, that the forces of competition tend to apportion the productive resources of the country in the most socially desirable way. That is to say, the assumption is that competition will result in the production of the proper number of shoes as compared to the number of motion pictures and automobiles, and that this balance is brought about by the tendency of capital to flow into the most profitable fields. Such an assumption, however, requires the person who makes it to jump over a tremendous gap—the gap that lies between those things that sell for the highest price and those things that do the most social good.

That the gap is a great and serious one must be recognized by everyone who realizes that farmers today are receiving a starvation price for wheat, the supply of which is not in excess of the world needs, at the same time that the manufacturers of many needless and stultifying luxuries have been securing, at least until very recently, fabulous profits. The trouble with competition is that it lures the productive resources of the country into the manufacture, not of things that do the most good, but of things for which people will pay the highest prices, and while it is doubtless true that there is a certain correlation between what people want (or what they need) and what they will pay for, it is equally true that the correlation is far from close.

In the public utility field as in other fields, therefore, it is clear that social control requires some other criterion than that of competitive demand and supply, just as it is clear that the government, in the building of streets, and the care of public health, must judge of the wisdom of these expenditures by other criteria than those of a direct return on the investment.

—James C. Bonbright
Professor of Economics, Columbia University

¶ "THE *trouble with competition is that it lures the productice resources of the country into the manufacture, not of things that do the most good, but of things for which people will pay the highest prices, and while it is doubtless true that there is a certain correlation between what people want and what they will pay for, it is equally true that the correlation is far from close. In the public utility field as in other fields, therefore, it is clear that social control requires some other criterion than that of competitive demand and supply.*"

Why the Present Means of Securing "Fair Return" Is Unreasonable

What the utilities and the regulatory bodies can do about it

IN this article the author advances the argument that the regulation of rates is an ineffective method of controlling public utilities, which he treats as monopolies. The important thing, he says, is a proper division or apportionment of the productive resources of the country between the competitive and the monopoly fields.

BY BRUCE W. KNIGHT

Is utility regulation in a rut? All the current discussion pro and con about the breakdown of Commission regulation and all the investigations into the activities and the procedural functions of these bodies, betray a widespread dissatisfaction with utility regulation.

What is the matter with it?

Some critics suggest doing away with it in favor of unregulated competition between private utilities; others suggest doing away with it in favor of public ownership and operation. Still a third (and probably the largest) class think that the Commissions have failed because of statutory limitation. This group advocates strengthening the Commissions rather than abolishing them; it suggests patching up and overhauling the Commission laws.

Everybody seems to be pondering the question of whether or not new layers of laws should be added such as those proposed to extend the jurisdiction of the Commission over holding companies. The basic structure has been taken for granted—perhaps too much so.

What basic structure?

I refer to the most widely accepted doctrine in the development of utility regulation—the principle of a "fair return on a fair value," which has the stamp of approval of practically every legislature and State Commission in the Union.

This doctrine, moreover, has by this time become crystalized by a series of decisions from the United States Supreme Court into a juridical fiat.

I DO not believe that a fair return itself is unreasonable, but that the present means of securing it is unreasonable. And I believe that there is a more equitable and more economically sound method by which utilities may secure a return which is both reasonable and fair.

I have three points to make in this critique of the fair return doctrine.

First; I believe that the biggest objection to an unrestrained monopoly is not so much that a monopoly charges a higher price and enjoys an unusually high rate of return, but chiefly that a monopoly creates an improper distribution of productive power, otherwise called "resources" or "investment," among industries at large.

Second; I believe that while the fair return policy may succeed in keeping the return of these utility monopolies at a fair level, it cannot answer satisfactorily the objection I have raised in my first point.

Finally; I am proposing a substitute method of regulation which I believe will take care of this uneven apportionment of productive power, a method consisting simply of direct regulation of utility investment.

WHAT is a monopoly? Applied to the utility business, a monopoly usually means an exclusive right to sell utility service and is limited, of course, to some specific territory.

To begin with, then, the important factor about a utility monopoly is its effect on the price charged for the service rendered. A monopoly price is the price of a supply so fixed by the monopolist as to give him the maximum net return. By contrast, competitive price is a price which tends to equal the unit cost of production of the commodity purchased.

Possibly, a concrete example would make this distinction a little clearer. If Henry Ford, for instance, had the exclusive right to manufacture and sell automobiles in the United States, Mr. Ford could, by restricting his output, charge a price for his cars very much above the cost of production. With the automobile industry thrown open to competition as it is, however, the charge made by Mr. Ford must be close to the cost of production.

IT is apparent from these distinctions that he who has a monopoly is playing the game of trade by easier rules than those imposed upon men in more competitive lines. In addition to this trade discrimination there is the fact that a monopoly forces the consumer to pay tribute without any necessary relation to productive costs. Now, when we put these two objections together, we are likely to conclude that if the monopolist were compelled to base his charges on productive cost, the consumers would be protected and at the same time the unfair distribution of income would be removed.

In other words, we jump to the conclusion that if the income of a utility monopolist were limited by law to the general average competitive rate of earnings based on production costs, not only would the consumers be getting approximately the same value for their dollar that they would get if they spent it on a competitive product, but that the utility's volume of output would be the same way as though competition controlled the field.

It is the last half of that conclusion that I believe to be unwarranted. To the average man, the fact that the cost to him for utility service is too high as a result of its monopolistic character might not be so disturbing if the cost to him of other things were correspondingly low—also as a result of the utility's monopoly. But is such the case?

Let us see if it is.

WHEN a monopolist wants to get a high price he limits his output. When he does this he restricts the investment of resources in his field to less than it would be if the field were wide open for everybody.

What is the result?

Why the Author Believes the Present System of Utility Regulation Is Fundamentally Wrong:

BECAUSE *an uncontrolled utility monopoly has two inherent economic evils; its power to enjoy an exorbitant rate of return, and its power to restrict its output and capital investment to less than the proper amounts.*

BECAUSE *the present system purports to control the monopoly, but in effect strikes at only one of these evils without touching the other.*

BECAUSE *the trouble lies in the universally accepted doctrine that public utilities should be regulated largely, if not entirely, by an arbitrary limitation upon their rate of return, rather than by a control of their capital investment.*

The uninvested capital has to go somewhere. Naturally, it follows the line of least resistance and it flows into other fields. It goes into the production of competitive goods—clothes, automobiles, cigars. Why does not the increased supply (and consequent reduced price) of cigars and the like compensate the public for the decreased supply (and consequent higher price) of electricity and the like?

The answer is that the consumer is getting too many cigars and too few kilowatts, or as the student of economics would say, "the productive power is badly apportioned; a given amount of resources is producing a more valuable product in the monopoly field than in the competitive field; and resources should be transferred from industry in general to the monopoly field until this discrepancy ceases to exist."

LET us see just what effect a monopoly has on capital investment. To get an accurate picture it is necessary to find whether a given industrial field is underinvested or overinvested. In competitive fields the task is easy—the rate of earning is a trustworthy thermometer. When a competitive field is underinvested, the rate of return rises above the general average level for all industries.

That is what happened two years ago when certain pioneers in talking picture production began to pay fancy dividends before the other picture companies entered the field. The reason was because almost overnight the talking pictures were a success—almost overnight a great public demand was created and found only a comparative handful of capital in the field.

The preference of investors for the underinvested field remains until the deficiency is corrected

and continues no longer than this.

The fair return policy, promulgated by practically all of our State Commissions, tends to conceal the fact in the monopolized field. It is one thing for the law to say how much money a utility should make on its investment, but quite another for the law to limit the value of the product itself. Now, the fair return policy deliberately attempts to limit the value of utility service produced. So if this policy does what it is supposed to do—fix utility rates so that the investment, be it adequate or inadequate, produces only at the same rate as general investment in other fields—how can we ever find out whether or not the amount of investment in the utility monopoly is sufficient or deficient?

So effectively, indeed, does the limitation of the price or value of what is produced tend to obscure the presence of underinvestment or overinvestment that if we take a large mass of the public utility findings of courts and Commissions and investigatory bodies we shall find this:

While no little is said about adequate service and investment, it is vague in relation to the problem of apportioning all of our productive power properly as between the regulated field and industry in general.

Of course, it is obvious that resources in an underinvested field are worth more per unit to society than are resources in general. Accordingly, they should fetch a higher price, until the deficiency of investment disappears, and so they would if unregulated. One immediate result of regulation is to encourage an inefficient use of such services as the utility actually produces with its inadequate stock of resources, since, under the circumstances, buyers get the services for less than they are worth.

How is the inadequacy of investment to be ascertained and corrected, and corrected without leading on to overinvestment? If a really fair return is to be secured, under this plan, the return must be held at the general competitive level; but this means that investors will exhibit no preference for the regulated field, in which, accordingly, the underinvestment must tend to continue.

"And how," we are asked, "can there be such a thing as underinvestment in the field of regulated utilities whose stocks are usually so esteemed as gilt-edged securities?"

The argument is made that investors prefer the regulated field because they see that it offers an assured rate of return, whereas any investment they might make in the general competitive field would of itself drive down the general competitive rate.

I do not agree with such arguments. In the first place, there can be in practice no absolute assurance of precisely the competitive rate in the regulated field.

Look at the street railways in this country, for an example. A Commission might try to regulate charges in such a way that the competitive return would be realized, but it could hardly guarantee such a return.

However, if this point were waived, would not investors prefer the public utility because their own investments would drive down the return in the competitive field?

Again, no.

By hypothesis, the monopoly return is to be kept as nearly equal as possible to the competitive return, and investors must anticipate this also. But the main point is that investment in the competitive field need not drive down the competitive return, for this return is computed with reference to the competitive field itself and not with reference to the monopoly field. Moreover, it is practically inconceivable that anticipations would lead investors to act in the manner described.

BUT there is a more serious argument to be considered when we allege the existence of underinvestment in the field of regulated monopolies. Assuming that there is an underinvestment, and charges so set as to yield only the competitive return, it is contended that the service will be insufficient in amount in the sense that buyers will want more than they can get at the price; and the pressure of buyers upon the regulatory body will cause the investment to be increased until the output equals the demand at the controlled (cost) price, at which point the pressure will cease. But there is less in this argument than appears at first sight. The price or value of the product being arbitrarily controlled, the deficiency of investment is a conjectural quantity. How are we going to distinguish, when users of the service themselves do not distinguish at all clearly, between the desire for more service at the same rate, on the one hand, and lower rates on the other?

The average user of the service is not concerned with the condition of the utility's investment. All he knows is that he wants a rate reduction. He does not care if the stock buyers are fighting for the privilege of purchasing utility shares or whether brokers are peddling them hopelessly. He wants his monthly bill cut down.

IN practice, the Commissions find the clamor of ratepayers of uncertain pertinence to the question of whether the investment is comparatively balanced. Moreover, it is impracticable for them to make an actual inventory of the units of service desired but unavailable at the regulated price.

What can be done about it?

The approach which I wish to propose would practically reverse the present procedure. It would regulate the rate of return, not essentially by fixing the price of the output, but by controlling the output and the investment required to produce it. Instead of preventing the productivity of resources in the monopoly field from showing whether the investment was deficient or excessive in amount, it would make this productivity its main reliance in determining how much the investment ought to be increased or decreased.

Let us first present the proposed new approach in a highly simplified outline, in order to make clear the most important distinction between it and the present plan; after this has been done, we shall suggest how the outline might be modified in practice to avoid an unduly severe shakeup in changing from the present approach to the new one.

IN the first place, require the regulated monopoly, regardless of whether it is underinvested or overinvest-

¶ "IN PRACTICE, *the Commissions find the clamor of ratepayers of uncertain pertinence to the question of whether the investment is comparatively balanced. . . . What can be done about it? The approach which I wish to propose would practically reverse the present procedure. It would regulate the rate of return, not essentially by fixing the price of the output, but by controlling the output and the investment required to produce it.*"

ed, to observe the outstanding requirements of technical efficiency.

These requirements are reducible to two:

First, that all plants in the industry should use approximately the methods of the most efficient in the field:

Second, that throughout the industry as a whole the proportions between fixed and working capital should be such as to permit production to be carried on at the minimum cost per unit of output.

AFTER these requirements have been observed, the next step is to get rid of price-fixing—to let the price of the existing output be determined by the competition of buyers.

This will, incidentally, have the economic advantage of tending to prevent any of the supply from being used by purchasers to whom it is worth less than the competitive price. But, what in the long run is more important, it will reveal the fact and extent of underinvestment or overinvestment. If the field is underinvested, the bidding of buyers will force the price of the product above its cost; if it is overinvested, the competition of buyers will not be sufficiently strong to bring the price of the product up to a figure as high as its cost. The surplus in the former case would indicate the need of increasing the investment, and the deficit in the latter would show the need of decreasing the investment.

If the field is underinvested, require such additions to plant as will cause the output, when the right amount of working capital is used with the plant, to increase until the price and the cost come to equality. When the plant and output have been increased to this extent, the industry will realize the general competitive rate of return by being allowed to receive and distribute to its investors the total receipts from sales, but until investment has been increased to this extent the receipts will be more than enough to yield the competitive rate of return.

TO illustrate how the new policy would proceed, suppose that a fair return, as judged by competitive enterprises in general, is 8 per cent, and that, as a result of abandoning price-fixing, the productivity of the existing investment in the monopoly field rises from 8 per cent to 12 per cent. In this event, do two things.

First; limit the investors in the field to a return of 8 per cent, or perhaps a trifle more than that, and plough the remainder of the 12 per cent back into the field in the form of investment.

Second; on the assumption that

capitalization in the field equals the cost of the plant, increase the issue of securities and invest the proceeds of the sale of the additional securities in additional plant.

KEEP this up until the investment in the field reaches the point where its productivity is at the level of competitive industries in general. When this point is reached, the surplus productivity of investment in the monopoly field will, of course, have disappeared, and the investment will be of the economically correct volume. Investors will get a fair return by receiving the whole product of their investment; and capitalization will also be correct, since with each increase of investment the capitalization will have been increased correspondingly.

If the field is overinvested, allow the fact to be revealed by the deficit which will arise because the selling price is below the cost; and begin to get rid of the deficit, not by arbitrarily raising the price of the product, but by curtailing the investment and hence reducing the output, until the price of the product and its cost are equal.

To illustrate, assume (as above) that the general competitive rate of return is 8 per cent, but suppose that the productivity of the excessively large investment in the monopoly field is only 6 per cent.

Further, let the capitalization of the monopoly property be correct; that is to say, equal to a proper cost valuation. In this case, proceed somewhat as follows in reducing the amount of resources invested in the field:

First, get out of the field at once any equipment which is of such a character that comparatively little cost would be involved in devoting it to other industries.

Second, as depreciation takes place, abandon facilities, or fail to replace them up to the former level.

In both cases, of course, reduce working capital enough to keep production as nearly as possible at minimum cost per unit. As the investment is reduced, decrease the capitalization correspondingly. Continue the process until the price of the product, as determined by the competition of buyers and without arbitrary interference in the form of price-fixing, is equal to cost of production. When this point is reached, the deficit will disappear, and the investment in the field will be of the economically correct volume.

IN the process of readjusting the investment of either underinvested or overinvested fields, it would be necessary to face the problem of taking care of legitimate vested interests. For example, in the case of underinvestment, the result of abandoning price-fixing would be to raise the price to the injury of buyers who had relied in good faith upon the lower price. Again, in the case of overinvestment the abandonment of price-fixing would lower the price to the injury of shareholders in the industry.

But this general problem is neither peculiarly nor insuperably difficult. It arises whenever any change in any public policy is made, and may be regarded as a necessary cost of progress. If necessary, it would be better simply to compensate out of public funds any legitimate vested interests damaged by the change than it would

be to continue the present method of regulation merely because the process of change presented difficulties.

So much for the skeleton outline, or distinguishing characteristics, of the proposed new approach. However, this description of the new plan of regulation is rather an approach to the problem than a detailed procedure. In practice it is well to make haste slowly in putting a new plan into operation.

THE problem of vested interests, in particular, would be a correspondingly serious one. In fact, there might well be two advantages in retaining a modified form of price control; first, that of avoiding the unduly sudden readjustment just now mentioned; second, that of the information which a more gradual change of prices would bring to light concerning the degree to which the investment ought to be increased or decreased.

What is implied by a modified control of price?

Assuming that technical efficiency is required of the regulated industry, the first task, or that of discovering whether underinvestment or overinvestment exists, should not be a difficult one. If necessary, price-fixing might be temporarily removed altogether; in that event an underinvested monopoly would, of course, show a surplus and an overinvested monopoly would show a deficit. Once the fact of incorrect investment had been disclosed, something like the following steps might be taken:

In the case of underinvestment, permit the monopoly to raise the price of the product substantially, but not radically, above what it had been under the operation of the fair-return policy. That is, permit the monopoly to charge appreciably more than it did. Yet, in order to prevent the change in the price from being too great, the increase should not produce a rate equal to that determined by the free competition of buyers for the actually existing output. As a result, the productivity of investment in the regulated field will go above the general level.

TO illustrate, say that the productivity of investment in general is at the rate of 8 per cent, and that the productivity in the regulated field now becomes 10 per cent.

Then, as under the simplified version of the plan, we do two things: First, we reinvest in the monopoly field most of the surplus of 2 per cent. Second, we increase somewhat the volume of the outstanding securities of the regulated industry, and use the proceeds of the sale of the additional securities in enlarging the investment.

To avoid an excessively rapid readjustment of investment in the field, make the addition to the securities issue moderate; and, if it seems desirable to give the additional securities more than the average attractiveness in the investment market, some of the 2 per cent surplus just mentioned may be paid out to the holders of both the old and the new securities.

Since the investment has now been increased, but only moderately, and, therefore, probably not enough to make it as great as it would be were the industry actually regulated by free

competition, the same thing will be true of the output. Hence charges should be lowered, but not to a point as low as they would be were they to bring the productivity of investment in the monopoly field all the way down to the general competitive level. Accordingly, reduce charges by some fraction of the difference between the present charges and the charges previously set under the operation of the fair-return policy.

After this, repeat all of the steps in order. If the steps are moderate, the charges will get down to the level appropriate to the proper amount of investment at the same time that the investment gets up to the proper amount. In the case of overinvestment, it will be seen, without the necessity of detailed description, that the corrective steps would be just the reverse of those required for underinvestment.

I DO not urge that precisely this course would have to be followed in anything like rigid detail. But, in any event, by tracing something like these steps, by making the readjustments at a moderate rate of speed, two advantages might be gained.

First: the transition from the old to the new approach to regulation would not be violent.

Second: a few changes in the charges would show something about the shape of the demand schedule for the monopolized commodity; and, similarly, changes in the investment and output would throw light on the shape of the cost schedule; and the two sources of information together might well be useful in estimating the extent to which further changes in investment were required.

Thus the main shortcoming of the fair return policy—its lack of trustworthy information to guide it in making the output and investment of the monopoly field what they would tend to be if free competition operated in the field—would be substantially removed. At the same time, moreover, that the regulated-investment plan secured the general conditions of competitive production, it would secure also the conditions of competitive distribution. When investment had been brought to the volume causing the selling price of the output to equal unit cost, the productivity of resources in the monopoly field would be at the general level.

In short, by using the direct regulation of investment as the approach to the public control of monopoly, both production and distribution in the regulated field would become what they would be if it were feasible to turn the regulation of the industry over to free competition, whereas the present approach is deficient in securing the conditions of competitive production in the regulated field.

THE main objection to monopoly, and that includes, of course, a utility monopoly, consists in its tendency to cause an incorrect investment of productive power in the monopolized field.

Let us reach the trouble at the source and regulate the investment.

IN *the following issue of* PUBLIC UTILITIES FORTNIGHTLY *will appear* MR. KNIGHT'S *commentaries upon the views of* PROFESSOR BONBRIGHT.

Remarkable Remarks

A professor in one of our great technical schools, in 1879.

"After a thorough investigation, I find the electric light is a failure."

ELMER SPERRY
Late scientist and inventor.

"I will tell my sons that the only thing worth doing is the impossible."

THEODORE DREISER
Novelist.

"Running a big corporation is routine now. All the important things were learned long ago."

THADDEUS H. CARAWAY
U. S. Senator from Arkansas.

"All the so-called captains of industry who mix into politics accomplish is to become easy picking for the lobbyists."

GEORGE ROTHWELL BROWN
Newspaper columnist.

"Washington (D. C.) is seriously thinking of bringing natural gas to the city without waiting for the return of Congress."

JOHN A. ZEHNTBAUER
Oregon manufacturer.

"Nothing pleases a certain type of politicians more than attacking established enterprises, employing empty, but well-sounding phrases to establish a 'popular issue.'"

MARTIN J. INSULL
President, Middle West Utilities Company.

"Ownership does not of a necessity carry operation with it, except generally in the case of government ownership. Operation then becomes political, not economic."

EDWARD N. HURLEY
War-time Chairman, U. S. Shipping Board

"I know of no government operation of a commercial nature which is yielding 7 per cent upon the actual value of the property devoted to the purposes of the operation."

C. M. RIPLEY
General Electric Company.

"There are ten million houses in the U. S. A. which are not wired for electricity. There are six million farms which are not buying electricity from any utility company."

CHARLES GORDON
Managing Director, American Gas Association.

"The electric railway executive, seeking intelligent public consideration of his effort to preserve and rehabilitate a vital service to the public, is still frequently hamstrung and kept on the defensive by political buffoonery."

PAUL SHOUP
President, Southern Pacific Railroad.

"I cannot go along with those who predict flying freight trains. Doubtless air routes will prove popular for light packages and even larger shipments of great value, but present freight movements will be affected little by plane developments in the near future."

DONALD R. RICHBERG
Lawyer and author.

"Political government is today, more than ever before, the expression of economic power. Unless this economic power is controlled by democratic processes, there can be neither economic freedom, nor political freedom."

NORMAN THOMAS
Socialist and publicist.

"The history of public utilities in America prior to regulation was a history of initiative and enterprise, some of it highly competitive and socially wasteful, and also of outrageous exploitation of the public. It was the business of public utility magnates to keep wages down and rates up."

EDWIN F. GAY
Professor of Economics, Harvard University.

"With the increasing tendency to seek economies which result from the increased competition, there has also been in the immediate past, and is likely to be in the future, a strong demand for the protective shield of mergers, combinations, and large-scale enterprise in general."

JOHN T. FLYNN
Magazine writer.

"While this famous (Sherman trust-busting) statute was passed originally at the behest of the small business man who cried out that the trust was devouring him, the bitterest foes of the trust law today are these same small business men who declare that it is the trust law which is the mother of trusts."

GEORGE P. WEST
San Francisco newspaperman.

"For the present, at least, 'personal success' in a big way lies not in the production of goods by a few grubby and sweaty engineers, assisted by the proletariat, but in the sale and financial exploitation of their products by sleek men with shrewd and dexterous minds, playing golf at the right clubs and working in offices with flowers on their desks."

R. R. W.
In a contribution to "The World," New York.

"Reviewing *Moody's Manual* (*Public Utilities*) briefly may seem a thankless job, but it has encouraged me when making out my monthly check for electric light—$2.80 or thereabout—to the New York Edison Company, to think that I do not have to send it to the Schweizerisch-Amerikanische Elektriaets Gesellschaft in Zurich or to the Societa Lombarda per Distribusione di Energia Elettrica, Milan."

What Others Think

A Plea to Abandon the "Artificial Concepts of Fair Value and Fair Return" in Rate Making

A SUCCESSFUL regulatory policy should abandon the artificial concepts of fair value and fair return as administrative guides, in the opinion of D. F. Pegrum, Assistant Professor of Economics, University of California. He says:

> "Rate making is a problem of economic dynamics and failure to recognize this has led to the present *impasse*. The decision of the Supreme Court in the St. Louis and O'Fallon Case is a compromise and has left the Commissions in a quandary as to what to do next. How long this condition will last it is impossible to say. The answer to the enigma seems to lie in a clear-cut and logical separation of the functions of courts and Commissions in the field of regulation."

In discussing the part played by the courts in determining the reasonableness of rates, he says that the right of judicial review

> ". . . has been interpreted as the right to protect property owners against confiscation, and the court has stated that it will not interfere with the work of Commissions unless the rights and privileges of corporations, as established by Constitution and statute, have been violated. In other words, the function of the courts is to lay down the basis of confiscation; to set the minimum below which Commissions cannot legally go in determining rates. This, of course, raises the issue of how confiscation is to be determined, but may it be remarked that this is only *one* part of the whole problem of regulation.
>
> "It is not possible to go into an extensive discussion of what would appear to be a sound theory for the establishment of a bench mark by which confiscation could be determined. This would be aside from the main contention of this paper which is that regulation of public utility rates comprises two distinct issues, the legal one of confiscation, and the administrative one of adequate rates from a business standpoint, the former being merely the starting point of the latter. However, a few suggestions may be offered for the determination of confiscation.
>
> "In the first place, some definite stand should be taken by the courts and should be consistently adhered to. Then the Commissions would know definitely the legal minimum limiting their powers. One alternative would be to return to the doctrine of Munn *v.* Illinois, in which the court declined to review the reasonableness of rates as fixed by the state. Then administrative bodies could be saddled squarely with the responsibility of fixing rates that are fair to the public and adequate to the utilities. In other words, the Commissions would have the duty of determining what constituted a fair return. This is probably not feasible, however, inasmuch as the courts appear determined to use the doctrine of a fair return on a fair value. If this be the case, then Mr. Brandeis' doctrine of prudent investment seems to be the best approach because it alone can be kept up to date, without much dispute, endless litigation, and an enormous expenditure of money. With this as a starting point a definite method by which a fair rate of return can be determined should be given. Then would the limits of confiscation be established. Of course, other alternatives have been advanced by courts and by writers, but, whatever be the choice, some definite fixed rules should be laid down by which confiscation can be ascertained. This is the legal obligation."

PROFESSOR Pegrum points out that the Commissions have an entirely different function from that of the courts in dealing with rate questions. Upon this point he says:

> "Now with regard to the function of the Commissions, we have come to consider it their duty to prescribe rates which are fair to the public and fair to the utilities, the latter being interpreted to mean rates which will enable the corporations to render adequate service, to expand according to the demands for service, and to induce capital into the public utility field sufficient to meet those demands. This capital must be obtained in competition

with other industries seeking funds. When these conditions have been met, the rates thus established are reasonable *from an economic standpoint.*

"Unfortunately Commissions too often have taken the rule established by the courts in setting the minimum to mean that this also determines the maximum return to be allowed, and hence confusion of thought has followed in regard to the functions of these two distinct parts of our government machinery. The duty of regulatory bodies is not the *negative* one of fixing rates which merely escape confiscation, but rather the *positive* duty of fixing rates which are adequate from a business standpoint. Such a policy of regulation would necessitate the abandonment by Commissions of the present approach by which property is "valued" on some basis or other and the return determined by multiplying the base arrived at by some uniform percentage. In its place would be substituted a procedure involving a careful analysis of all factors entering into the structure of a sound business organization. For example, a Commission would examine the cost of rendering service, the efficiency and adequacy of service, costs of marketing securities, and the yield which the market is demanding on securities of the corporation. By such a procedure the authorities would be able to decide upon the revenue required for successful operation by the corporations under their control. Then the results so obtained could be tested by established court standards to see if the rates so fixed escaped the legal limitations of confiscation."

"On this score the Interstate Commerce Act is open to criticism. The Interstate Commerce Commission is hampered in its work by legislation which lays down a definite rule of rate making. What is necessary is legislation which leaves the administrative authorities with a free hand in rate making. For example, in California the law places upon the State Commission the duty of fixing reasonable rates, but does not state how the latter are to be determined, nor does it require the Commission to find a "value for rate making," although this *may* be found if desired."

Professor Pegrum's view as to legislative rate-making rules appears to differ from that of another school of economists who believe that legislative rules with reference to rate making should be more definite even than they now are.

LEGAL VERSUS ECONOMIC PRINCIPLES IN UTILITY VALUATION. By D. F. Pegrum. *"The Journal of Land & Public Utility Economics."* Vol. VI., No. 3, page 235.

The Ten Factors on Which a Utility's Public Relations Are Based

A GREAT deal has been written about the importance to public utilities of good public relations. What is the real goal? Clark Belden, Director of Public Relations of the National Electric Power Company, New York, answers that question as follows:

"Before we can build an effective program, we must ascertain just what the program is supposed to accomplish. *A company with which it is pleasant to do business.* Is not this the real goal?

"I have seen many definitions of public relations. So have you. However, let us see if we cannot formulate a good short definition; 'Good public relations is best achieved by operating a property so as to please as far as possible the four elements of customers, of employees, of stockholders, and of official bodies but yet so that the property will develop physically and economically.'

"We see that achieving good public relations is a matter of compromise between the foregoing five factors—customers, employees, stockholders, official bodies, and the property itself. Success calls for a fine balancing of the viewpoints and interests of these five elements, a fine blending of these elements into a unified program whose ultimate aim is: *a company with which it is pleasant to do business.* Thus there is considerable give and take in achieving good public relations. As we all know, there are obstacles along the way. But life is strewn with obstacles. It is so in all things. After all, life itself is largely a matter of compromise."

ANSWERING the question what factors build good public relations, Mr. Belden lists ten based upon a survey recently made among the leading utility executives of Illinois. They are as follows:

"First, physical service. (Continuity, adequacy, pressure) 91% rating.

By special permission of "Punch," London

THE ROAD CAT AND THE RAIL MOUSE

That the English railways are suffering from the same motor bus competition that confronts the United States railways is reflected in this cartoon from Great Britain's foremost humorous weekly.

"Second, employee performance. (Technical expertness, interest in customer, knowledge of business, clarity of statements, courtesy, appearance). 86% rating.

"Third, adjustment of criticism. (Handling of complaints and requests for special service). 79% rating.

"Fourth, complete frankness. (On policy, financial standing, methods, privileges to customers) 77% rating.

"Fifth, telephone service. (Promptness, voice, accuracy, completeness) 72% rating.

"Sixth, service connections. (Promptness, liberality of extension policies) 70% rating.

"Seventh, customer ownership. (Wide local distribution of securities) 66% rating.

"Eighth, correspondence. (Promptness, clarity, courtesy, accuracy, adequacy) 64% rating.

"*Ninth*, public speaking. (Addresses on the industry's or company's service to the community) 60% rating.

"*Tenth*, appearance of structures. (Maintenance of grounds and structures, character of overhead construction, individual service connections) 60% rating."

Says Mr. Belden further:

"Here is something definite and concrete to follow when we formulate a public relations program. In substance, we want to operate a property so as to achieve as many as possible of the factors outlined in this survey—giving particular attention to the three or four which received the highest rating. If we accept our real goal as *a company with which it is pleasant to do business* and if we accept the foregoing survey as indicative of just what constitutes the several factors which unite to attain this goal, the next question is this: How shall we operate a property so as to achieve these factors which the survey outlines as basic in building good public relations?"

Mr. Belden stresses the importance of the proper training of employees for their public contacts. He says:

"After all is said and done, the vast majority of contacts between customers and a property are made through the rank and file of the employees—whether it be by letter, by telephone, or face to face. Quite properly, customers come to picture the company in terms of these same employees. The employees are the company. This is both figuratively and literally true. Of what value is it to engage in a group of activities of a secondary public relations value if your employees are not well trained in public contact? After all, the future of the company rests in their hands in more ways than one. In short, if any public relations work at all is done, such work certainly ought to have employee training as its foundation. There is nothing more important."

THE old idea that a public utility company was numbered among the soulless corporations, something far removed from the people that it served, was not very helpful either to the corporations or to the public. It is perfectly proper that the public should picture the company in the terms of its employees. The public service company is a collection of individuals as much as was the old partnerships. We have a friendly feeling toward any workman we know is trying to do a good efficient job at a reasonable price; but we do not like him if we feel that he is soldiering on the job and careless in its execution and charging the very top price for his work. Probably a job well done counts for more than anything else.

THE MECHANICS OF PUBLIC RELATIONS. By Clark Belden. New York: National Electric Power Company. 12 pages.

The Contrasts in Measuring the Value of Employees in Government and in Private Business

THE efforts that are being made in certain sections of this country to inject government operation and ownership of public utilities into the political campaigns this fall have at least stimulated an interest in governmental business methods.

In discussing the methods by which the Federal Government conducts its business, William Atherton Du Puy says that a dry-as-dust scientist sat in an alcove of the Bureau of Standards for twenty years studying the radiation of the stars; that nobody seemed to check on the results or lack of results he obtained; that nobody seemed to worry about the money spent on him; that this might have been because few people knew he existed. Mr. Du Puy then adds:

"This scientist who played with heat and light rays, for example, was given a lot of time without showing any return. One day, however, the War Department addressed a letter to the Bureau of Standards. When soldiers went into camp in the summer time, it said, it got very hot under the army tents. Could anything be done to lessen this heat?

"The inquiry was referred to the man who had been studying stellar radiation. Yes, he said. If the army tents were paint-

ed with aluminum paint the heat would not come through. Since the subject was brought up he might add that roofs might be similarly painted with a like result. Ice wagons should have aluminum paint on their tops. But radiators for heating houses should not.

"As a matter of fact, half the radiators of the Nation were at that moment covered with aluminum paint. Most of the popular gilt was aluminum. The householder with his radiators so painted who burned 15 tons of coal in the winter could get as much heat out of ten tons if he would substitute lead paint.

"The public, having paid the salary of this scientist for twenty years, had cashed in."

According to Mr. Du Puy the rewards for high service by efficient governmental employees is not great. He says:

"If, in private business, a man is put in charge of an enterprise and he saves a million or makes a million he is likely to be rewarded. Not so in the government service. A specialist in the Department of Agriculture kept peeping through microscopes and shaking test tubes until he found a cure for hog cholera. It meant tens of millions of dollars a year to the taxpayers who were his employers, but it brought him no reward.

"The cottony cushion scale was eating up the orange trees of California. On a hunch a government entomologist went to Australia, found a variety of lady-bug with an appetite for the scale, brought it back to California, bred a trillion of it. It ate the enemy and as a result oranges ride over the Rockies in countless refrigerated train loads every year.

"But the scientist is probably still working for $2,600 a year. The man who introduced cold-resistant and drouth-resistant wheats into the Great Plains area, adding vast sums to the national income, received no reward. It would be different in business.

"There are elements of weakness and elements of strength in the operation of this vast noncompetitive, administrative agency that is the government. There are doubtless great wastes. Government is not necessarily different from business and industry in that respect. There are undoubtedly stupendous profits.

"In its campaigns for simplification of manufacture it may well be that the Department of Commerce has saved enough money to run the entire government. In its development of a national park system the Department of the Interior has built up a heritage for posterity that will endure through the centuries. In its contribution to the banishment of yellow fever, typhoid, malaria, the Public Health Service has saved a million lives.

"In its facilitation of communication between people anywhere and those anywhere else, the Post Office Department has banished the barriers of distance. In its administration of a Pure Food Law the Department of Agriculture has placed a guard at the door of the national stomach. Everywhere there is service that is beyond the sort of measuring that may be set up by the yardstick of profit and loss."

This is a side-line on governmental service that is seldom considered.

THE GOVERNMENT IS NOT A BUSINESS. By William Atherton Du Puy. *"The Nation's Business."* August, 1930.

The Political Fight Over Utility Control

Now that the public utilities are being projected into the political campaigns in several sections of the country, the question of how far the government should engage in business, especially the public utility business, is again serving as a bone of controversy. Advocates of private ownership say there is an abundance of evidence of failure of governmental undertakings, while advocates of national, state, or municipal undertakings assert with equal assurance that operation both on a large and a small scale by public enterprises has been very successful.

The government ownership and operation question is, in effect, a rate question. No one appears to go so far as to assert that the government could furnish any more satisfactory service than is furnished by private utility companies, but the claim is made that the same quality of service could be furnished by public operation at lower rates for the reason that the profits of the private companies would in that way be eliminated. It is hard to get at the facts bearing on this question.

ARTHUR H. Markwart of San Francisco believes that the basic cause of our social and economic advance lies in the fact that it has been stimulated by individual need and ambition and guided by individual enterprise and initiative. His analysis, as expressed in a recent pamphlet, leads him to an unfavorable conclusion as to government ownership.

Mr. Markwart's ideas on the subject are definite and pronounced. For instance, he looks upon government ownership as a sort of social disease—a disease that we do not "catch" but one that is brought to us like malaria. He even suggests that it might be the duty of some of us to keep this disorder under control—to see that unaffected communities are immunized against the germ, transported in the person of some plausible propagandist.

This author further sees the invasion of the utility field by local municipalities as the cause for the tendency toward state and Federal regulation. Deploring such policies of centralizing governmental powers, he yet feels that the maintenance of the economic soundness of public service corporations is more important for public interest. He is concerned, however, over the fact that municipal plants usually escape regulation, while privately owned organizations must bear its burden. He states:

"This lack of control over the acts of municipalities is awakening the public conscience, for, from time to time state legislative measures are proposed which would cause the trade activities of cities to come within the purview of the public regulatory body, and subject their related physical structures to the *visé* of proper state authorities. We even hear of movements of the Federal and state governments looking to the collection of income and property taxes from the strictly business enterprises of municipal governments.

"On its face, municipal ownership presents a pleasing appearance and some are grossly deceived by its theories; however, calm and judicious scrutiny reveals its instability. It is unstable politically, economically, and socially. It disregards the principles of business and favors a few at the expense of many; it creates situations inimical to the individual, which are akin to those brought about by trade practices that are considered unfair in business life. It develops discrimination, in that taxation is removed from the instruments of production when they are operated by a privileged political group under the guise of public ownership. Taxes are a part of the cost of production so, obviously, those who can avoid this element of cost have an advantage over all members of society who cannot. In the very nature of things, municipal ownership is but a form of local privilege. The avoidance by a local political area of Federal taxation through municipal operation of an instrument of production is equivalent to a gift from the national treasury, for the local advantage, by the amount that would otherwise have been paid in taxes had the instrument of production been privately owned. And again, by reason of the state taxes not paid in such a situation, the local area, in effect, is receiving from the state treasury, to the disadvantage of all other localities of the state, an amount of money equal to the state taxes, that would have been paid under private operation."

Again, Mr. Markwart claims that government ownership is fallacious as being contrary to the idea of equal opportunity; that it is unfair for one political unit of our country to create for itself a condition of economic solitude such as the Free City or City-State of mediaeval centuries. He claims that municipal ownership is an attempt to confine an economic unit to the geographical limitation of its corporate limits. Such an attempt is incompatible with the trend in this country during the last half century toward unification, national mutual dependence, and interconnection. It would be as much folly to confine our economic service to municipal boundaries as it would be to confine telephone or transportation service which cannot be enclosed within state or even national boundaries.

Mr. Markwart concludes as follows:

"For the common good, municipal ownership, characterized mildly as local provincialism, must, in the long run, give way before the virile individualism of a national community. Our vast country has been rendered homogeneous by transportation, communication, and power, provided not through government action but through private initiative, which, flourishing under the triumphs of the Jeffersonian

concept of the state,—'that government is best which governs least,'—has unified our economic life without destroying political boundaries."

On the other hand, former Governor Alfred E. Smith of New York is not afraid of government in business per se. He has declared, concerning the proposed St. Lawrence power development, that he was as unmoved by arguments about the horror of the "government in business" as he was by tirades against the monstrosity of the "Power Trust." He said he was impressed only with the problem as to which system could convert waters of the St. Lawrence into power and sell it to the people at the more reasonable rate with due regard to the more adequate brand of service.

In other words, he had no objection to the "Power Trust," as long as he could be assured that it was doing the cheapest job possible. On the other hand, he did not care a hang about all the politico-economical reasons against the government in business, if government ownership was the only way the people could get a square deal.

L. A. Cowles, Superintendent of Electrical Utilities of Rochester, Minnesota, puts in a good word for municipal plants, based upon the record of the government plant in that city. He says:

"Rochester has owned and operated its municipal water plants since 1883—nearly fifty years; and its electric light and power plant since 1893. During all that time and through all kinds of opposition and difficulties the people of this city have stood pat on municipal ownership.

"With minor difficulties now and then and a disastrous fire that completely destroyed the plant in 1915 these plants have been an ever increasing success. During the last five years, 1923 to 1928, the current consumption has increased from 1,200,000 kilowatts to 10,208,000. The net income has increased from $88,000 to $228,000 per year.

"Our business has been growing so rapidly that it is actually difficult for us to maintain our plant with sufficient capacity to meet the demands. The assets of the plant have increased over a million dollars since 1923. We have over 500 electric stoves on our lines which is more than the private company in St. Paul has, a city of over fourteen times our population.

"Our rates in Rochester have always been from 15 to 20 per cent lower than any privately owned utility in the state of Minnesota. And yet our policy has been to maintain our rates at such a figure that we could always have sufficient funds in our sinking fund for the maintenance and extension of the plant at the maximum capacity of current consumption. We believe in and have maintained that policy with the current consumer, who benefits by the earnings of the plant.

"Our current rate is on a graduated scale from 8 cents down to 4 cents and if you have an electric stove our current rate is 3 cents minus 10 per cent, if payment is within ten days. Then we have our power rates dropping to as low as 2 cents per kilowatt.

"The average cost per kilowatt hour for 1929, was 4.098 cents. And the net income per kilowatt hour sold, was 1.667 cents.

"It is impossible to estimate the savings to Rochester by owning and operating their own utilities as compared with private ownership, but a conservative estimate would be $120,000.00 per year."

Mr. Cowles claims that the city's investment is safe for all times; that the cost of its bond issue has been covered and that there is sufficient money in a sinking fund to take up outstanding bonds not yet due. A large emergency fund is maintained and last year $125,000 was spent for improvements. Another $71,000 was spent in extending a by-product business of central steam heating into the schools and courthouses of the city.

Mr. Cowles also asserts:

"Municipal ownership of utilities, being local, are easily studied by the citizens. Their advantages are evident to everyone, and they become a natural function of government.

"There are 7,000 municipally owned water works in the United States, and over 2,500 municipally owned electric light and power plants. Of this number, the city of Rochester, Minnesota, takes pride in the utilities owned and operated by the city."

The advocates of government ownership claim that they prove their case by demonstrated results. The advocates of private ownership of business assert that the figures given in favor of government ownership do not give a correct picture of the results of operation.

PRIVATE OR GOVERNMENT OWNERSHIP OF PUBLIC UTILITIES. By Arthur H. Markwart. Pamphlet, 58 pages.

As Seen from the Side-lines

POLITICAL straws show which way the wind blows. That saying, it is merely a saying, almost attained the stature of a political axiom.

* *

IT would be a self-evident proposition, which is Mr. Webster's verbatim description of what an axiom is, if all the straws blew in the same direction. But they rarely do. (They are so contrary!) They become the straws which break the back and which make life desolate of satisfaction for the contemporary forecasters and analysts of current events.

* *

TAKE the case of Mr. Gifford Pinchot, as an illustration.

* *

A PROPHET without honor in his own state, with no political machine to aid, guide, or even to encumber him, he runs for governor on a platform which flays, assails, and assaults the power corporations and wins for himself the most colorful victory of his long, hectic, and, to some, irritating career.

* *

THEN turn to Maine.

* *

HERE is a state in which the Messrs. Insull have accumulated more bucketfuls of water than all the boys of America ever lugged to the elephants on circus day, and out of which they have generated more electrical energy than Benjamin Franklin could have thought possible with even all of his marvelous imagination.

* *

HERE is a state in which the people have employed the initiative and referendum on sundry and divers occasions to "lop off the tentacles of the octopus." Here is a state in which they even refused to permit the producers to export the surplus of power which disappears into the ether, wastefully and extravagantly. Here is a state in which the Democratic aspirant for governor reached into his bag and pulled out all the anticorporation tricks; and yet the people refuse him election by 20,000.

* *

THEN cast an eye over the neighboring Yankee state of New Hampshire, which has similar problems, a similar psychology and a similar Republican constituency. Where the folks in Maine preferred the Republican governor who was accused of unholy obeisance to the corporations, their neighbors in New Hampshire voted *their* preference for the Republican who made as his cardinal issue the promise of adequate regulation.

* *

MR. WINANT and Mr. Morrill were the two candidates for Republican favor. The former labored under the handicap of his own irregularity as a Republican. He was anathema to Senator George H. Moses and to the erudite Republican machine which believes that New Hampshire would vanish into impotency if Mr. Moses' decisions in political matters were questioned or ignored. He labored under the handicap of offering himself for the second time for governor to a state which believes that one term is sufficiently long for any man to become acquainted with the job. In passing, let it be said, in order that the truth may prevail, that these New Hampshire Yankees have the old Colonial idea that anything smacking of autocracy is as dangerous to pure democracy today as it was harmful to independence in the era of George III.

* *

MR. MORRILL, on the other hand, was a legislator of experience and a beneficiary of the party organization. His theme, with reference to the public utilities, was, in brief, "Let well enough alone." He would not harm a hair on

the head of legitimate business nor would he, by act, word, deed, or omission, discourage any industry from contributing to the moral and material advancement of the commonwealth. Yet, the people of New Hampshire, unlike the people of Maine, would not take him.

* *

THERE is inconsistency in all of this. However, we hasten to explain some of it away and thus contribute a moment of doubt to the inconsistency of our own reasoning as far as these lines have carried us. Mr. Winant, unlike his Maine prototype, is not an orator, but, unlike his Maine prototype, he is a persuasive person. He does not orate with adjectives and his mentality is not confined to his vocal chords. It so happens that he has absorbed some of the political astuteness of Robert P. Bass and other antimachine strategists who have helped to make of New Hampshire a place in which to hold office themselves. And it so happened that he was seeing eye-to-eye with the most skillful member of the New Hampshire Public Service Commission.

* *

WITH this result:

* *

THE Commission began a public scrutiny of the alien ownership of some of the New Hampshire public utilities and it produced some interlocking business practises in that ownership which might impress the ordinary business man as prudent and practical but which did not impress the highly sensitive political mind as being idealistic or consonant with public policy. Public policy, we find, is something to be admired when it affects the other fellow and something to be ignored when it affects ourselves.

* *

As the majority of the Republican primary voters of New Hampshire do not happen to own public utility stock, they said to themselves as they went to the polls, "Our sense of public decency requires us to rout these rascals"; and they voted for Winant. They were unmindful of the fact that on that very day, a day in which the people of New Hampshire suffered the results of unemployment in common with the people of all the other states, a public utility organization was preparing to dedicate the largest water-power development east of the Niagara, to begin the generation of cheap power at a plant which cost, I think it was $2,000,000, and provided that much labor for the people of this country, notably of New Hampshire and Vermont.

* *

IT were idle to lose sight of some facts which, when collated, can give the semblance of consistency to these situations, perplexing as they seem. Mr. Pinchot and Mr. Winant are men of wealth. They are intelligent and able, a fact which must be conceded no matter how contrary their views may appear to be. They have the capacity to employ brains to supplement their own; they have the time and leisure to devote to study of public affairs; they have respectability and they have the talent to make the breaks of a campaign swing to their advantage. It has been men of their wealth and of their intelligence who have directed the liberal, call it the radical, if you will, movement in this country to such success as it has attained.

* *

WHAT may seem to be abuses in great corporations have been pointed out to the public by men of this character before the men within the industry have manifested the energy or the disposition to correct, abate, or eliminate them.

* *

THESE may be occasional and isolated straws which have taken the same direction by chance. But it is victories of this sort that give heart to the Norrises, the Couzens, and the others in Washington who, if not all of them, are advocating public ownership, at least coincide in the demand for further regulation.

John T Lambert

"I See by the Papers—"

* * * * A health magazine reports that the Egyptian shepherds place an egg in a sling and whirl it around their heads until the friction of the air cooks it. . . . Well, that's one way to avoid being exploited by a gas utility, even if it is a bit spectacular.

* * * * A wild scheme for socializing medicine in the United States and of forcing all physicians to become employees of the states, was seriously put forward and held out as a real possibility recently at the opening session of the annual convention of the American Medical Association. . . . Watch your step, Doc! . . . If you oppose the idea you may be charged with "poisonous propaganda" against government operation.

* * * * The return of the redoubtable *Gifford Pinchot* as Governor of Pennsylvania will assure the simultaneous return of the 5-cent carfare, with free transfers for Philadelphia, to say nothing of lower gas and electric rates, according to Deputy Controller *Wilson*. . . . Ain't politics wonderful?

* * * * The spectacular fire which just about ruined the ramshackle old Washington fire-trap where the records of the Federal Trade Commission's investigation of the utilities were kept, was duly attributed to the ruthless incendiaries of what the Hearst newspapers call the "Power Trust." . . . The accusation is reminiscent of the popular cartoon of a puppy mournfully regarding the puddle forming at the base of a dripping umbrella, and observing "I know I'll be blamed for this!"

* * * * Old Sleuth reports that dial phones in large numbers are reappearing in the United States Senate office building, even though they were ordered out, with an impassioned outburst that was heard around the world, which moves despite our politicians. . . . The inventor *Bell* once placed four or five of his early telephone instruments in banks for a tryout; one banker in great indignation ordered the instrument out. . . . He did not propose to have the reputation of his institution wrecked by the installation of such a "play toy" as that, b' gosh!

* * * * It is reported that a gas company in Minneapolis was denied a stay of a temporary injunction against increasing its rates; it is furthermore reported that this action marked the fourth successive victory for the city attorney in the rate litigation. . . . Just as we were getting ready to believe that the poor city attorneys don't have a chance against the slick utility lawyers, too!

* * * * Now the utilities are being dragged into the Wet-and-Dry fight. . . . In Kansas City, Missouri, a United States district attorney has announced that he will seek to indict a gas company as a "manufacturer of liquor" in connection with the confiscation of an 800-gallon still in the basement of a garage; he regards the gas company as culpable because no report had been made by its meter readers, who presumably knew that the liquor manufacturing apparatus was there. . . . In another state a utility company ordered its meter readers to do just that, and the order set off a fine display of maledictions against the company. . . . Sometimes there just seems as though there was no God!

* * * * Drivers of two rival bus lines in Jersey City got into a fight the other day in their zeal for picking up passengers. . . . As they were stopped by a red traffic light, words began to fly and the two left their seats and went at it with fists while the passengers of both busses cheered them on. . . . Why not equip drivers of competing bus lines with gloves and let 'em put on regular one-round exhibitions while waiting for each red traffic light? . . . They would attract passengers; and no one could say that competitive forces were not at work in the public utility business!

* * * * From New York comes a report of a rate case hearing that was conducted on the Donnybrook Fair order. . . . Honorable *George R. Van Namee,* of the New York Public Service Commission (who was presiding), was charged of being prejudiced in favor of the company and of being unfit to sit in the case; one of the council for the people declared: "I want to put on record my objection to your mental attitude favoring the company." . . . Whereupon

a representative of a taxpayers' association informed the Commissioner that he had written to the Governor asking for the Commissioner's removal. . . . The Chesterfieldian attitude exhibited reminds us of the rural justice of the peace whom one of the attorneys accused of being under the influence of likker, and who observed that "the only legal authority the court ever consulted was a comic almanac."

* * * * Chairman *James A. Perry*, of the Georgia Public Service Commission, after a year of patient silence, has answered what he terms the "nonsense" propagated by the Municipal Utilities Rate Commission about Commission regulation, including the ancient "watered stock" war-cry. . . . While the Municipal Utilities Rate Commission has as imposing a name as the "Fresh Air Taxicab Company of America, Incorpulated," nevertheless Commissioner *Perry* seems to think it is of uncertain parentage. . . . Just the same, misrepresentations are misrepresentations, wherever they come from.

"—how electricity appears to the naked eye"

* * * * "So long as high finance returns on watered stock and excessive profiteering are the impulses which waive the traction management, just so long will the car-riding public continue the victims until the conditions finally become unendurable. . . . The watered stock bugaboo, like the wild mustard seed, is very hardy. You can never tell when it is going to spring up.

* * * * There has been so much palaver about what electricity is and what it looks like that we've decided to settle the matter once and for all. . . . The dictionary tells us clearly enough all about it, as follows:

> "The agency or force in nature, to which are due numerous phenomena, such as those observed when certain substances are rubbed or heated (attraction and repulsion), those in connection with moving magnets (as in the production of electric light), and metallic circuit (as in telegraphy), those connected with various chemical actions (as in electrolysis), etc."

* * * * If anyone wants to know how electricity appears to the naked eye, merely refer him to the bronze image of it recently made by the sculptor *Edward F. Sanford*, for the Alabama Power Company, which may be regarded as a bit of an authority in such matters. . . . A picture of this image is reproduced on this page. . . . Now let's hear no more about it!

* * * * The New Jersey Commission is keeping a cold eye on a proposed ordinance in Newark to license all electricians because of the effect that this profession has upon the "safe and adequate service" by public utilities. . . . The Commission is growing uneasy because the proposed measure might give the licensing board of Newark control over matters which the New Jersey legislature has placed under the exclusive jurisdiction of the Commission. . . . One of the Commissioners belligerently announced that he would "fight to a finish" any attempt by the Newark authorities to poach on the Commission jurisdictional preserves. . . . The Boxing Commission may be called upon to officiate.

The March of Events

Alabama

Ferry Toll Reduction Hurts State Bridge

CHANCELLOR'S Ferry of Childersburg has filed a schedule of reduced rates with the Alabama Commission after the issuance of a citation based upon the charge that the ferry had reduced its rates below the charges of the state toll bridge at the same point.

The owners of the ferry, according to the Montgomery *Advertiser*, told the Commission they had received authority of the local county board to reduce fares from 50 to 25 cents on automobiles, regardless of the number of passengers, and that they were under the impression they were complying with the law. A complaint had been filed with the Commission by the state highway department, which stated that the reduced charge of the ferry was cutting into the revenue of the state toll bridge.

California

Rate Cut Threatens Irrigation District

COMPLAINT has been made by the directors of the Modesto Irrigation District that a reduction in charges of the Pacific Gas and Electric Company in its territory was made for the purpose of taking customers away from the district. District officials, according to the San Francisco *Examiner*, may apply to the Commission for a rehearing in connection with a rate schedule authorized for the public utility company last June.

The district distributes electric energy to customers, according to A. W. Stratton, chairman of the directors, and has 96 per cent of the business in the irrigation district. On account of this business the district, he said, has been able to operate its water department very cheaply. Mr. Stratton is quoted in the *Examiner* as saying:

"We would not object if the schedule of rates granted the P. G. and E. applied generally all over the P. G. and E. consumer territory in California. But it applies only to our irrigation district. It puts the P. G. and E. into competition with us and is undoubtedly aimed to take away our customers or to compel us to lower our present rates, which would make it impossible for us to carry on our amortization under the present state requirements. Also it would prevent us from selling our water as cheaply as now, since the sale of power and water are closely interrelated with us."

Bond Issue to Acquire Utilities Defeated

THE bond issue passed upon by the voters of San Francisco on August 26th which was proposed for the purpose of acquiring local electric utilities was defeated by an overwhelming vote. The move to require the utilities was started some time ago and the Commission had valued the properties. It has been intimated that public officials were anxious to have the matter voted upon, whether rejected or approved, because if it had not been voted upon, the cities could have been compelled to pay the cost of the valuation.

District of Columbia

Street Railway Fares

THE Public Utilities Commission found that it was impossible to file a statement of evidence in the appeal from the decision of Justice Jennings Bailey granting the street car companies an increase in car fare to 10 cents cash, and on August 30th asked the District supreme court to allow it three weeks more for filing the statement. It was shown

that the records to be digested contained more than 2,500 pages.

The Commission filed its assignments of errors which, it asserts, Justice Bailey made when he declined to dismiss the companies' petition for the higher fare. The assignments state that the court should have ruled that the companies had failed to make out that the old rates, 8 cents cash with six tickets for 40 cents, did not yield a reasonable return on the valuation.

The railway companies have filed their report for the month of July and these show a large decline in net income as compared with July 1929. The Washington *Star*, in discussing the results of the new fares, continues as follows:

"As the new rate of fare went into effect in July, there has been a tendency to blame some of the decrease on the higher fares, but the experts point out that the losses were steady in the months preceding the increased fare. For instance, an examination of the monthly reports showed a loss of 337,677 passengers in May of this year, in comparison with the same month of 1929, and a loss of 312,729 in June of this year in comparison with the corresponding month of last year.

"It was explained, therefore, that the revenue passengers have not been dropping off at an alarming rate because of the higher fare, although it is impossible to determine at this time the actual effect due to the increased fare, which was operative only for the last eight days of July. The August reports of the car companies, it was said, would furnish a more accurate gauge of the effect of the higher fare.

"The increased fare, however, has inured to the benefit of the car companies, according to the utility experts, on the basis of revenues for May and June. In May, with a loss of 337,677 passengers, it was pointed out, the net income was $23,309.48, under that of the same month of 1929, and in June it was $21,874 under that of June last year, whereas the net income in July, with a loss of 414,840 passengers, under the same month of 1929, was $17,631.97.

"The car companies have blamed some of the loss in revenue passengers to the competition of the unregulated taxicabs which have been offering a flat-rate cheap service since March. At the Public Utilities Commission, it has been impossible to determine how many car riders have been taken away by the cabs because some of the cab operators have not submitted reports on the result of their operations."

Commission Investigates Taxicab Operations

THE Public Utilities Commission on September 10th held a public hearing on the taxicab situation in Washington. The newspapers state that testimony revealed that there is chaos in the Capital's cab industry. Cut rates have been the vogue for some time. Some of the companies have meters and others do not. Some taxi owners have zone fares. Sergeant Joseph Harrington, hack inspector for the Traffic Bureau, described the situation as follows:

"I am convinced that thousands of persons are riding in cabs who never rode before. But I receive complaints daily from persons who are confused about the zones and who feel that they have been stung. They don't know what this 'city proper' is and they don't like to pay 60 cents when they see 35 cents advertised on the front of the cab.

"With the zone situation as it is at present, whoever leaves the downtown section in an unmetered cab is at the mercy of the driver. I was told by one driver that he charged them as he liked their faces."

Aside from the rate problem, the Commission considered indemnity insurance, signs on cars, and the driving of cabs by policemen, firemen, and civil service employees during off hours.

Georgia

Gas Companies Combine

EXTENSION of natural gas service in Georgia, says the *United States Daily*, is involved in the purchase by the Southern Cities Public Service Company of a half interest in the Georgia Natural Gas Corporation. This report is based upon an oral statement by Chairman James A. Perry of the Public Service Commission.

The Southern Natural Gas Corporation has constructed and owns the pipe line from Monroe and Richland, Louisiana, throughout the southeast. Pipe lines are being laid to the southern section of Georgia, natural gas service already having been installed in some places under the ownership of the Georgia Natural Gas Corporation. Gas is being delivered to the distribution systems of the Southern Cities Public Service Company at these points.

Franchises, according to the information contained in the *Daily*, have also been granted to the Georgia Natural Gas Company in many

other cities of the state, and gas systems are under contract for construction in several others. The Commission has been notified that the Southern Cities Public Service Company will assume the management of the Georgia Natural Gas Corporation and the expansion of the natural gas system will be under its direction, although the main trunk pipe lines will be built and owned by the Southern Natural Gas Corporation.

Local Rate War Starts State-Wide Probe

WHEN the Georgia Power and Light Company cut rates to meet the competition of a municipal plant in Crisp county it brought upon itself an attack on rates which has extended over the entire state of Georgia.

The trouble started when a hydroelectric plant was built by the people of Crisp county, in the south central part of the state, which began operation in August at rates 10 per cent less than those of the Georgia Power Company. The company retaliated by reducing its rates 35 per cent. This action was declared by the company officials to be imperative. P. S. Arkwright, president of the power company, said that the prior action of the municipal authorities was taken with the deliberate purpose to destroy the company's business. He stated that the company had not invaded the field of a competitor, but that the situation was just the reverse. If the company had invaded the field served by any municipality and attempted to destroy a business already established there, he declared that such action would be universally condemned, and rightly.

The Public Service Commission, upon learning of this reduction, then ordered the company to show why its rates throughout the state should not be reduced to the same level. Chairman James A. Perry, of the Commission, explained that one of the things on which the law regulating utilities is most explicit is the requirement that there shall be no discrimination in favor of one community over another, and that this appeared to be a case of discrimination.

The next move was by the power company, which secured a temporary injunction restraining the Commission on the ground that it had no right to fix minimum rates, although it had the right to fix maximum rates. An attempt was to be made to have this injunction made permanent. The Georgia Municipal Utility Rate Association intervened asking to be made a party to the suit.

Illinois

Financial Plan for Traction Companies Drafted

THE tenative $263,758,000 financial plan for consolidating the surface and elevated lines of Chicago into one local transportation system has been completed by Halsey, Stuart & Company, consolidation managers. This has been presented as a working basis to the bankers' advisory committee. When they have criticised and probably amended it, the plan will be submitted to the twenty or more protective committees representing holders of securities of the existing companies, says the Chicago *Tribune*.

The proposal is made that the new corporation—Chicago Local Transportation Company—shall issue new securities totaling the agreed valuation of the surface and elevated lines minus the bonded indebtedness of the latter. The $48,516,700 bonded debt of the elevated, because of its average low interest rate, will be assumed by the new company.

Indiana

Delay on Rate Request Called Confiscatory

THE Southern Indiana Telephone and Telegraph Company has filed suit in the United States district court for an order restraining the Public Service Commission from interfering with the collection of increased rates.

The need for additional revenues sought through the higher rates is set forth in a brief which states that the Commission on August 8th declined to act for the time being on rate increases requested. The Commission's action was understood to have been

taken because of the drought in the southern part of the state, where the company operates thirty-five exchanges serving 13,500 subscribers.

The company asserts that common stockholders have not received dividends for five years, but, on the other hand, have been compelled to pay assessments to meet interest and dividend charges. Loss from operation under the old rate schedule is estimated at $5,000 a month.

Martinsville Electric Rates under Review

A HEARING on the petition of the Wabash Valley Electric Company to enjoin the Commission from lowering electric rates in Martinsville was begun in Federal court on September 4th before Albert Ward, special master in chancery.

The utility attacked a ruling of the Commission which specified that only electric property of immediate usefulness in serving a community could be counted in a valuation on which rates are based. This resulted in reducing rates in Martinsville approximately $25,000 a year which the utility charges amounts to confiscation. The contention is made by the company that the value of communicating power lines and equipment should be taken into consideration for rate making.

Attorneys for the company made an effort to prove that rates should be based on a $5,556,000 valuation for the whole Wabash Valley Electric Company, serving fifty or more other communities instead of being confined to a matter of valuation on property useful to the service of Martinsville patrons.

Maryland

Commission to Aid in Prelicense Cost Decision

THE Maryland Public Service Commission, we read in the Baltimore *Sun*, will be permitted by the officers of the Federal Power Commission to participate in determining the prelicense costs of the Conowingo power project. This announcement followed a letter by Chairman Harold E. West protesting that his organization had been ignored when army engineers had undertaken a survey of the property. The *Sun* goes on with the statement:

"Commenting on this letter, Federal Power Commission officials said that under the Conowingo license the Maryland Public Service Commission now no longer had a right to participate in determining prelicense cost. Article 18, officials pointed out, provided that if the cost of the project was not fixed in six months, 'then the Federal Power Commission shall fix an amount which, in its opinion, represents said costs.'

"Although for a time it was amended in order to prolong the interest of the Maryland and Pennsylvania Commissions, this 6-month period expired long ago. Officials said that since Article 18 had been amended before, there was no reason why it could not be amended again. They explained they recognized the right of Maryland to participate in the determination of prelicense costs, and that they intended to work out a plan for continued coöperation with the Maryland Public Service Commission.

"The work which was undertaken without the participation of the Maryland Commission, it was explained, was that of determining the value of farms and other land purchased by the Philadelphia Electric Power Company in order to make up the Conowingo reservoir."

Massachusetts

Fare Reduction to Stimulate Car Riding

THE board of trustees of the Boston Elevated Railway authorized a reduction in the rate of local fares from 6¢ to 5 cents without transfers for an experimental period of thirty days beginning September 1st.

Edward Dana, general manager, announced that the reduction in local fare zones was prompted by the necessity of increasing riding in order to offset, if possible, the loss in riding from the use of the private automobile and present industrial conditions, which together caused a reduction of 1,380,-

409 passengers, or about 5 per cent in the number of passengers carried on the system during the month of July 1930 compared with the same month last year.

The Boston Elevated is operated under the law on a service-at-cost basis. A decrease in revenues owing to a reduction in riding can be met ultimately only through proper economies, or by an increase in the rate of fare, or by increasing riding.

The local rate of fare is of value for short rides throughout the Elevated system. There are 120 routes over which the local rate of fare is in effect. It was estimated that between 80 and 90 per cent of the riders availing themselves of the reduced local fare will pay a single cash fare of 5 cents in the farebox without the necessity of tickets, warrants, or coupons. The 5-cent ride is confined exclusively to surface car and bus routes, and does not permit the local rider to enter the Rapid Transit System.

Michigan

Demand Phone Rate Probe

IMMEDIATE investigation of the Michigan Bell Telephone Company to bring about reduced rates for Detroit and other places in the state has been asked of the Commission by the attorney general's office. This action, says the Detroit *Times*, was based on evidence prepared by Harold Goodman, special telephone counsel for the state who reported:

"1. That the company is making more than 8 per cent, but this is impossible to prove because the company hides figures from the state.

"2. That the company has boosted its depreciation claims from $4,000,000 to $7,000,000 in an effort to show low profits.

"3. That receipts by the company have increased fabulously, while operating costs have diminished."

The telephone company, according to the Detroit *Free Press*, has refused to open its "secret set of books." The attorney general has asked the Commission to use its authority to compel the company to make them public. It is asserted that the telephone company keeps two sets of cost books, one set for the public and the other for its private use.

Minnesota

New Gas Rate Franchise Settles Rate Controversy

THE city of Minneapolis has passed a new gas ordinance and accepted a compromise granting the Minneapolis Gas Light Company a franchise for twenty years. New rates are fixed which are calculated to give the company a return of $1,100,000 in place of the $900,000 a year net earnings under the old rate of 89 cents per thousand cubic feet. The new rates include a minimum charge of $1 for 600 feet of gas; the next 1,400 feet of gas is figured at 80 cents a thousand feet; the next charge is 77 cents a thousand for 3,000 feet more; and it continues to drop at intervals to a minimum of 74 cents.

The company has agreed to a valuation of $14,600,000 for rate-making purposes in place of the $19,000,000 insisted upon during proceedings in the courts.

The city council, under the ordinance, has the right to refix rates every three years, and also reserves the right to buy the company's property at the end of any 5-year period. The franchise is not exclusive and the council can give a similar franchise to another company. It will also be empowered to fix rates for natural gas.

Metered Phones to Be Installed by Company

METERED telephone service is being planned for Minneapolis by the Northwestern Bell Telephone Company. The Minneapolis *Tribune* states that the service is to be limited to one-party business subscribers on an optional basis. A meter will record each call placed by a subscriber and lay the foundation for a monthly bill.

A few hundred meter phones have been installed in the Minneapolis business district for experimental purposes, and, says the St. Paul *Pioneer-Press*, tests have been successful. Officials explained that they expect to have meter phones in service by January 1st on other exchanges.

Missouri

One-man Cars Opposed by Labor Body

OPERATION of one-man street cars on the Kirkwood-Ferguson line of the Public Service Company in St. Louis began on September 1st over the objections of the Car Men's Union.

Opposition to one-man cars is based upon the ground that it will increase unemployment, endanger public service, and amount to a return of so-called one-horse methods of transportation.

To reduce the duties of a one-man car operator, such cars have been equipped with electric heaters instead of the coke-burning stoves formerly in use, according to the St. Louis *Star*. In the new heaters air is forced by a fan over incandescent coils. Passengers are interested in the change because electric heaters are understood to provide heat quickly, whereas the stoves often fail to warm up until an entire trip has been made, it is stated.

The operation of these one-man cars has been defended because of the decrease in operating expenses which follows. They are also said to afford greater safety, owing to new devices in use on them. It has been intimated that some of the car lines would have to be abandoned or service greatly curtailed unless one-man cars were operated.

New Hampshire

Probe of Intercorporate Relations

THE investigation by the Public Service Commission into the capitalization, franchises, and manner in which properties are controlled or operated of the New Hampshire Gas and Electric Company and the Derry Electric Company was commenced on September 3rd. Documentary exhibits were introduced and DeWitt Clinton, treasurer of the two New Hampshire companies and assistant treasurer of the New England Gas and Electric Association, was examined and cross-examined.

The original order by the Commission for the investigation included also the New England Gas and Electric Company but an injunction was issued by the Federal district court for the district of New Hampshire restricting the Commission's inquiry to those companies which operate as public utilities within the state.

Mr. Clinton stated that the interest rate on an obligation of $2,900,000 of the New Hampshire Gas and Electric Company to the New England Gas and Electric Association was reduced on July 1st from 8 per cent to 6 per cent. This obligation was described as an open account between the organizations, and was developed by the retirement of bonds and preferred stock. He said that a similar reduction was made for all subsidiaries of the New England Association.

Robert G. Dodge, counsel for the utilities, informed the Commission that from the time of acquisition in 1924 to 1926, when the New England Gas and Electric Association was organized, the real owner of the Portsmouth Power Company was the Associated Gas and Electric Company of New York.

New York

Promotional Electric Rates under Scrutiny

THE new rate schedules proposed by the electric companies in New York city while cutting $5,396,000 from the annual revenue, according to the New York *Times*, eventually would increase the income of the utilities by virtue of the lower rates proposed for the larger customers to stimulate consumption. This was brought out in testimony before the Public Service Commission.

Exhibits showed that 1,020,145 residential and commercial customers or 52.1 per cent of the total customers would have their bills increased on an average of 27 cents a month. But 894,424 residential and commercial customers, or 45.6 per cent of the total customers, would have their monthly bills decreased on an average of 85 cents. The average decrease in the monthly bills of all customers

affected by the new rates would be 25 cents.

The company takes the position that this form of rate, in decreasing the charges to some and increasing charges to others, would result in a fairer distribution based upon the cost of serving the various classes of customers, and that this would eventually encourage customers to use larger amounts of current for their needs.

Brooklyn Gas Case

DR. John Bauer, in summarizing New York city's position in opposing the application of the Brooklyn Union Gas Company for rates to include an initial charge of 95 cents for the first 200 cubic feet of gas used, held, at a hearing on September 4th, that the quantity of gas used rather than the cost of servicing customers would form a more equitable basis for rate making.

He criticised the cost analysis prepared by Edward J. Cheney, engineer witness for the company. He said that Mr. Cheney had taken all costs relating to distribution mains, services, meter reading, billing, and divided them equally among all customers, although there were differences in the cost per customer with different service conditions. He said this allocation would result in overcharging apartment house customers and undercharging single family customers.

At a hearing on September 12th when the distinction between apartment houses and other dwellings was mentioned, Chairman Maltbie interrupted to say that the Commission had no idea of fixing one rate for apartment houses and another for private houses.

Dr. Bauer on cross-examination conceded that the company served a small group of customers on whom it loses money and another group whose consumption is too small to allow the company a fair return on its investment.

The opponents of the new rates urge as one of the grounds for their disapproval that the 95-cent charge in effect includes a service charge, which is prohibited by statute.

Ohio

Business Methods of Plant are Criticised

CRITICISM of the poor business methods used in the management of the Campbell city water works is made by State Examiner C. E. Lippincott in his report to State Auditor Tracy, we are informed by the Youngstown *Telegram*.

He said that good business methods should be applied to the management of the water works. There is said to be a total deficit of $13,896.80 in the water works account now, and even if all the delinquent bills are collected there would still be a deficit.

The auditor reported that operations of the water works had cost the taxpayers $24,400.50 and that the rate should be raised high enough to operate the plant on a paying basis.

Tennessee

War-time Rates Now Said to Be Too High

A PETITION signed by 11,271 persons seeking a reduction in telephone rates in Chattanooga has been filed with the State Commission. The Southern Bell Telephone and Telegraph Company and the American Telephone and Telegraph Company are named as defendants.

The petitioners assert that shortly after the World War, the Cumberland Telephone and Telegraph Company, the defendants' predecessor, was granted an emergency rate, the reason for which, it is declared, no longer exists. It is also charged that the Southern Bell "is inflating its operating expenses by the payment of a large amount of the expenses of the American Telephone and Telegraph Company." The Commission will pass on the charges.

The Latest Utility Rulings

CALIFORNIA COMMISSION: *Re Holbrook. (Decision No. 22673, App. Nos. 8580, 16121, 16198, 16291.)* In approving of the transfer of certain motor operative rights and properties to the East Side Transit Company, the Commission held that it had no authority to issue certificates for operations over private thoroughfares.

CALIFORNIA SUPREME COURT: *Sequoia National Park Stages Co. v. Sequoia & General Grant National Parks Co. (Sac. No. 4308.)* An exemption, by virtue of a California statute, of busses operated by hotels or others for sight-seeing purposes from the requirement of obtaining certificates of convenience and necessity from the Commission was held not to be unconstitutional as an arbitrary classification. The statute was said to be quite in keeping with the policy of the Federal Government to make the scenic beauty of our national parks and other public play grounds as accessible to the public as possible.

GEORGIA SUPERIOR COURT OF FULTON COUNTY: *Georgia Power Co. v. Public Service Commission.* A preliminary injunction was issued by Judge E. D. Thomas restraining the Georgia Commission from further action on its announced attempt to compel the Georgia Power Company to reduce its rates throughout the state to a level established voluntarily by the company in Crisp county. The company defended its Crisp county reduction on the grounds that it was necessary to protect its property from a rate war initiated there by a municipal plant. Action on the final injunction was to have been held on September 29th.

IDAHO COMMISSION: *Orr v. Mountain States Telephone & Telegraph Co. (Case No. F-701, Order No. 1234.)* A landlady whose boarders had an annoying habit of running up telephone toll bills without her knowledge complained that the telephone company refused to limit her service to local calls or to put through toll calls only with her express approval. The complaint was dismissed. *(See Utilities and the Public, page 442.)*

LOUISIANA COMMISSION: *Re Inter-City Truck Line. (No. 1379.)* Application for a certificate to operate as a motor carrier between New Orleans and Bogalusa, via Covington, was refused upon opposition of the New Orleans Great Northern Railroad Company. The Commission found that if the motor competition were permitted the railroad company would be compelled to make considerable reductions in train service and employees.

MINNESOTA COMMISSION: *Re Northwestern Bell Telephone Co. (M-2064.)* Application of a telephone company for approval of changes in its exchange boundaries of Beaver Bay and Grand Marais so as to absorb new service resulting from the discontinuance of its exchange at Little Marais and for an appropriate adjustment of rates was granted without formal objections being registered.

MISSOURI COMMISSION: *Re Croner v. Kansas City Public Service Co. (Case No. 6847.)* Real estate interests attempted to obtain an order compelling the removal or remodeling of a "power house" or substation near a crossing on the outskirts of Kansas City. It was alleged that this structure interfered with the visibility of highway traffic, and was a nuisance and a fire menace; and that it caused electrolysis of gas and water mains in the vicinity, and that its "drab and forbidding" aspect deteriorated property values in the immediate vicinity. The complaint was dismissed. *(See Utilities and the Public, page 442.)*

MISSOURI COMMISSION: *Green v. Independence Waterworks Co. (Case No. 6906.)* A water company was authorized to enter and install service in a suburban territory lying between Independence and Kansas City, Missouri, previously served by seven mutual water service associations, buying their supply wholesale from Kansas City. Kansas City did not care to enter the territory. The authority was given on the complaint of 128 residents who were dissatisfied with the existing inadequate service and desired the company's service even at increased rates. Though it had no jurisdiction over the mutual associations, the Commission stated that the company could be authorized to buy their line at a reasonable figure if agreeable to all concerned.

MISSOURI COMMISSION: *Moss v. Kansas City Public Service Co. (Case No 6842.)* The Commission refused to modify the skip-stops of a street railway system adopted by the railway company in an effort to speed up its service, and dismissed a complaint asking for the restoration of a street car stop at Fifteenth street and Bellefontaine avenue, Kansas City.

MISSOURI COMMISSION: *Re St. Louis Public Service Co. (Case No. 7131.)* The Missouri Bus Law of 1927 was construed with regard to the authority of the Commission

over bus operations within municipalities. (*See Utilities and the Public, page 442.*)

MISSOURI COMMISSION: *Re Southwestern Bell Telephone Co.* (*Case No. 6674.*) The company was permitted to place telephone service to college fraternity houses under business rates instead of its former practice of applying residence rates to such service. It appears that the college boys talked too long and too often for the company to make any profit from its service under the old residence rate.

MISSOURI COMMISSION: *Re United Railways Co. of St. Louis.* (*Case Nos. 5321, 5395, 6692.*) Application of three motor carriers, the United Railways Company of St. Louis, Red Line Service, Inc., and the Interurban Motor Bus Service, Inc., for authority to render service over the same territory, was determined, oddly enough, in favor of one of the applicants, the Red Line Service, Inc., who had been admittedly operating without authority of the Commission and in violation of the state law for a considerable period. This decision was made in view of the fact that the United Railways Company showed a poor record for maintaining service, and that the third applicant did not show sufficient evidence of financial responsibility. In addition to this, the community served seemed well satisfied with the existing service even though it had been unlawfully rendered. A vigorous dissent was registered by Commissioners Porter and Ing.

MISSOURI COMMISSION: *Warner v. Union Electric Light & Power Co.* (*Case No. 6972.*) An electrical company having discontinued service under the name of Mr. Charles O. Warner, upon discovery that current had been diverted past the meter by a "U" jumper, was not required to restore such service on application of a "Mrs. Charles O. Warner," the wife of the delinquent consumer, until the occupants of the house should pay for the disconnection and reconnection of service, the installation of a lock box and meter, and until they should agree to pay a reasonable sum for the current shown to have been diverted.

MONTANA COMMISSION: *Re McAllister & Partington.* (*Docket M. R. C. No. 600 and 182, Report and Order No. 1571.*) A partnership holding a certificate to transport freight by motor between Columbus and Absarokee was found guilty of transporting goods in common carriage without authority between Billings and Columbus. The firm defended their action on the ground that their operation was one of private carriage covered by contracts with the shippers. The Commission found these contracts to be mere subterfuge, but in view of the fact that the firm was acting upon advice of its counsel did not revoke the operator's existing certificate, declaring that it would do so on any further evidence that the firm had not complied with its order to desist from such unlawful operations.

NEBRASKA COMMISSION: *Re Lincoln Telephone & Telegraph Co.* (*App. No. 8313*) Increased rates for telephone exchanges of the company situated in Hastings, Glenvil, Hansen, Juniata, Pauline, and Prosser were allowed without any express finding as to value where the estimated income would, under no consideration, be in excess of 6 per cent of the book value of the properties involved.

NEW YORK PUBLIC SERVICE COMMISSION: *Re Rochester, Niagara Falls & Buffalo Coach Lines, Inc.* (*Case No. 5866.*) In an effort to aid the diminishing revenues of the International Railway Company operating in the vicinity of Buffalo and Niagara Falls, the Commission amended a certificate formerly granted for a bus line between Rochester and Buffalo, via Lockport, so as to make the city of Lockport the western terminal, permitting connecting service into Buffalo by way of the International Railway. Commissioners Lunn and Burritt filed dissenting opinions. The consent of the city of Rochester to the bus route as originally intended between Rochester and Buffalo, via Lockport, was held not to be violated by the change, making Lockport the bus terminal and requiring connection with the International Railway for the continued trip into Buffalo. Likewise, the consent of the city of Lockport in this regard was held not to have been violated.

PENNSYLVANIA COMMISSION: *Re Schuylkill Transportation Co.* (*App. Docket No. 5138, Folder No. 14*) The Commission reserved its right, upon approving of the sale and transfer of a certificate of convenience and necessity by one motor carrier to another, to oppose additional modifications, restrictions, and limitations not part of the original certificate. This holding was made upon a petition for rehearing.

WISCONSIN COMMISSION: *Re Accounting for Merchandise and Appliance Sales* (*U-3892.*) The Commission construed a statute passed by the 1929 legislature directing that a utility should keep its accounting for profit and loss resulting from the sale of appliances and other merchandise strictly separate from purely utility operations. (*See Utilities and the Public, page 442.*)

NOTE.—The cases above referred to will be published in full or abstracted in *Public Utilities Reports.*

The Utilities and the Public

The Missouri Commission Refuses to Control Urban Busses

SOMETIMES the excessive zeal with which our lawmakers set out to do something has the actual effect of defeating its own purpose. It reminds one of the honest Irishman whose friend described him as being so straight that he bent backwards.

Only some quick, clear thinking by the Missouri Commission saved the Missouri legislature from being placed in an equally anomalous position in a recent controversy involving the motor bus law of that state.

Before this law, known as the "Missouri Bus Law," was passed in 1927, the State Commission, by virtue of the general Public Service Commission Law, had jurisdiction over "common carriers." There was so much doubt over whether this excluded busses or not and so much agitation for bus regulation that the legislature was constrained to pass the Motor Bus Law, specifically designed to give the Commission jurisdiction over motor busses.

This delay of motor legislation until 1927 was due, to some extent, to the opposition of municipalities to surrendering their own rule over transportation utilities within their own limits to the State Commission. So once more the Missouri lawmakers spit on their legislative hands and thought they had clinched the matter so as to make everybody happy by inserting the following, "Section 1," in the Motor Bus Law:

> "This act shall not be so construed as to apply to motor vehicles used in the transportation of passengers for hire, operating over and along regular routes within any municipal corporation."

Well, everybody seemed to be satisfied with that until the St. Louis Public Service Company, doing a traction business in St. Louis, asked the Commission last July for authority to operate busses somewhere within St. Louis city limits.

"Can't you read writing?" was practically what the Commission asked the company, pointing to "Section 1," of the Motor Bus Law, "we do not have jurisdiction over busses in St. Louis."

"Maybe not, from that section," replied the company in effect, "but let us look at it this way. This section expressly forbids the application of the Motor Bus Law to metropolitan bus operations. Very well, that leaves such transportation outside of the scope of the bus law and, therefore, under the general provisions of the Public Service Commission Law. Since the general provision of that law makes no mention of exempting metropolitan operations, please proceed with the application."

This certainly was a pretty state of affairs. Had the legislators blundered from an excess of zeal? This was the question that the Commission had to decide.

It was decided against the company on the point of "what the legislature really intended." The Commission stated in its opinion:

> "If the Public Service Commission has jurisdiction over motor carriers engaged in service such as described in that part of Section 1 heretofore quoted, it has acquired the jurisdiction through the provisions of the Motor Bus Act of which said quotation is a part.
>
> "If the legislature intended for this Commission to have jurisdiction over such motor vehicles, it does not seem that it would have specifically provided that: 'This ACT shall not be construed, etc.'
>
> "If the Public Service Commission should assume jurisdiction of this case, it would first be compelled to find that some provision of the Motor bus 'ACT' confers such jurisdiction upon it."

The application of the company was dismissed for lack of jurisdiction.

Missouri Commission Refuses to Order the Removal of an Electric Substation

IN the last issue of PUBLIC UTILITIES FORTNIGHTLY mention was made in the pages of this department of situations arising in the field of utility regulation involving consideration of architectural or scenic beauty, and other æsthetic problems. Since then the Missouri Commission has ruled on such a situation in a manner that merits more attention to the subject.

It appears that in the outskirts of Kansas City, Missouri—to be exact, at the intersection of 74th Street Terrace and Wornall Road, the Kansas City Public Service Company maintains a power house or substation. This structure, which has been under the attack of some residents and other persons interested in surrounding property, was built some time ago and subsequent development of the neighborhood left the building flush with the building line and projecting beyond the alignment of more recently erected buildings which were set back a short distance from the street.

Recently the Westbrook Investment Company filed a complaint before the Missouri Commission asking that the power house be either removed or remodeled.

A number of reasons were given why this should be accomplished. First, that the power house was a menace and danger to traffic in that it interfered with the visibility of motorists and pedestrians at the intersection, and was situated in such a position as to cause confusion and congestion.

Secondly, the structure was said to create a fire hazard by reason of its effect on water mains in the vicinity causing "electrolysis" and consequent deterioration of pipes supplying fire hydrants.

Thirdly, the substation was said to be a nuisance in that "electrolysis" resulting from its operation caused expense and inconvenience to surrounding property owners because of the repair and replacement of gas and water pipes.

Finally, the building was claimed to be out of harmony in its architectural lines with other improvements in that section. It was said that its "drab and forbidding aspect" caused a depreciation in the value of surrounding property.

The Commission separated these first two claims from the last two in passing on the complaint. Concerning the latter claims the Commission held that it had no jurisdiction to order any action on the power house for the reason given. The opinion stated:

> "The Commission does not assume jurisdiction in matters involving property damage or æsthetic repulsion and to this extent the motion of defendants is sustained."

Concerning the first two claims, the Commission found that the structure did not interfere with traffic to an extent sufficient to warrant an order directing its removal or remodeling, and that the "electrolysis" alleged to exist was not shown to be responsible for the rapid deterioration of water pipes in that neighborhood so as to create a fire hazard. On the contrary there was strong evidence that the deterioration was more likely to be the result of a condition existing in the surrounding soil.

Landladies Must Pay for Toll Calls

LANDLADIES all over the country ought to be downcast over a new ruling of the Idaho Commission. Long have these worthy women suffered from the delinquencies of boarders and roomers who run up long-distance telephone bills without identifying themselves, and now it appears that they will

receive no protection from regulatory law.

This ruling came when Mrs. Annabelle Orr, who operates a boarding house in Boise, Idaho, filed a complaint with the Commission of that state asking that the Mountain States Telephone & Telegraph Company be required either to limit her service to local calls or to put through long-distance calls only after obtaining her personal and express approval for each call so charged. She further asked that the company be adjudged guilty of a misdemeanor under state law, or that the Commission obtain its conviction in a suitable proceeding in criminal court. Finally, she requested the recovery of certain other penalties because of the conduct of the company in permitting her guests to run up her phone bill.

The Commission in dismissing the complaint failed to see that the company in rendering service to her boarding house was under obligation to perform any other service than that which it undertook to perform under its established contract. It was further pointed out that the company's established rules and regulations, assented to by the plaintiff in applying for service, made the subscriber responsible for all toll and other charges for messages originating at his or her station.

Under this ruling, therefore, it may be assumed that the telephone company not only has a right to refuse to limit telephone service to local calls, but also to decline to get the subscriber personally on the wire and ascertain if an attempted long distance call is being made with her knowledge and consent.

Lost Articles Covered by Motor Carrier Insurance

COMMISSIONERS and others interested in public liability insurance for busses, taxicabs, and other motor carriers will be interested in a ruling of E. W. Anderson, assistant attorney general for the state of Washington, on the term "damage" as used in the Transportation Act of that state.

This act, passed in 1921, provides that the Washington Department of Public Works should require motor carriers to file public liability insurance to cover personal injuries and also to cover "damage to property of any person other than the assured."

There were two questions on the construction of the word "damage" as used in this act that puzzled the Department of Public Works, as well as the state insurance commissioner. The attorney general's office was accordingly asked to render an opinion for the guidance of the Department.

The first question was this: Did the insurance policy, intended by the legislature to be required of motor carriers, cover property of the carrier's patrons which was actually being transported under the carrier's contract, or did it apply only to the damaged property of a third party with whom the carrier had no contract?

The second question was whether the word "damage" covered property which was lost, or only that which was injured? Strictly speaking there is a possible legal construction of the term "loss" meaning the complete physical deprivation as distinguished from the term "damage" meaning only an impairment.

Mr. Anderson ruled on the first point that the required policy should cover property being transported, as well as property of persons not contracting with the carrier. On the second point, Mr. Anderson was of the opinion that the legislature intended the word "damage" to be used in a sense synonymous with "loss" and so held that the policy should cover lost articles as well as property merely injured.

Treatment of Jobbing and Lamp Renewals by Utilities in Merchandise Accounting

JUST at a time when agitation over the matter of merchandising activities of public utilities seems to be growing there comes a clear cut decision of the Wisconsin Commission defining the accounting practices to be observed by utilities in that state in this respect that ought to receive the serious consideration of every other Commission in the Union.

During its 1929 session, the Wisconsin legislature passed a law providing as follows:

> "Every public utility as defined in Subsection (1) of § 196.01 engaged in the production, transmission, delivery, or furnishing of heat, light, or power, either directly or indirectly, to or for the use of the public, shall keep separate accounts to show all profits or losses resulting from the sale of appliances or other merchandise. No such profit or loss shall be taken into consideration by the Railroad Commission in arriving at any rate to be charged for service by any such public utility."

Although this statute was mandatory in its terms, the Wisconsin Commission was of the opinion that an investigation should be made to clear up doubts concerning its application.

First of all, it was contended by some of the utilities that a considerable part of the costs incurred relating to the sale of merchandise was incurred for the purpose of promoting the sale of the utilities' service such as gas or electricity, and that the sale of mercantile devices was only for the purpose of increasing such consumption. Indeed, many of the utilities declared that their only reason for engaging in the merchandise business was, not the possibility of profit itself in that business, but for the promotional effect on their service consumption. It was pointed out that, although a utility might sell no merchandise, it might properly conduct general advertising and demonstrate merchandise in order to stimulate consumption.

Admitting all of these possibilities, the Commission believed that the Wisconsin legislature intended that there should be charged to the merchandising business all costs connected with it regardless of the utility's motive for venturing into that field.

Going into more detail, the Commission made a special ruling on contract and jobbing work done by a utility. It stated:

> "Contract and jobbing work viewed strictly in its legal aspects is probably not a sale of merchandise but rather it is done under a contract for work, labor, and material as distinguished from a sale of goods. However, the merchandising done by utilities is so closely related to the contract and jobbing work, that unless the 1929 amendment is construed to cover contract and jobbing work, a considerable part of the merchandising activities of utility companies will be exempted from the provisions of the 1929 statute."

It was accordingly ordered that contract and jobbing accounts should be segregated from utility operations.

Another detail passed upon by the Commission was the matter of free lamp renewals and lamp renewal allowances. It is the policy of some Wisconsin electric companies (and companies in other states as well) to give free lamp renewals or allowances for lamp renewals in the form of discount from regular prices. Of course, such renewals are not actually free. The rate schedules under which such customers are served are designed to cover these apparently generous allowances. Some schedules specifically state what portion of the rate covers this discount.

The Commission's ruling on this point exempted such allowances from the "merchandise accounting law." The opinion stated:

> "Because of the practice which has been followed in many cases of making provision for lamp renewal allowances in rate schedules, because of the importance of encouraging the use of standard grade lamps in order that the customer may receive service of high quality and because in many cases rate schedules have covered the cost of lamp renewal allowances and the revenue from the sale of lamps cannot be determined separately from the sale of energy, the Commission is of the opinion that

where lamp renewals are made for customers without specific charge or at a price less than the price charged to parties not entitled to lamp renewal allowances, the lamp renewals should not be treated as merchandise."

Merchants Challenge Utility Merchandising

THE "merchandising" controversy, or, to be more accurate, the "anti-merchandising" controversy, made another bid for serious attention of public utility officials and state Commissioners by the latest action of Mr. A. B. Walton, the dynamic manager of the Association of Certified Electricians.

There have been many other attacks on the practice of merchandising by the utilities ranging from bitter assaults in published organs of steamfitters, plumbers, electricians, and hardware merchants, to court actions in Pennsylvania and proceedings before the Federal Trade Commission.

But Mr. Walton's latest move, bearing as it does some color of a plea for fair play, appears to be entitled to more consideration. It is in the nature of a petition addressed to the American Gas Association and the National Electric Light Association and reads as follows:

"We, the undersigned gas and electric appliance dealers, believe that the selling of appliances by your members is unfair competition and is in restraint of trade.

"Your monopoly of the sale of gas and electricity, together with your state guarantee of a fixed per cent profit, places your members in such a position of advantage that they dominate the appliance business to a point of monopoly. Your profit does not necessarily come from the sale of appliances, but from the gas or electricity the appliance uses.

"We appliance merchants do not own gas or electric plants to make up our profits, but must depend upon the sale of the appliance for our profits. However, if your members see fit to concede us the right of free trade in appliances by discontinuing their sale, we pledge ourselves to push the sale of gas and electric appliances to the limit."

The September 6th issue of *Gas Age-Record* reports that Mr. Walton has secured thousands of signatures from plumbing and heating contractors, electrical and hardware dealers, and other independent merchants who object to utility merchandising.

One not unusual feature of this controversy is that the interest of the buyers of the appliances is not considered, although there are many more buyers than sellers.

Telephone Strikers Are Not Allowed to Compete

IF a public utility company does not like the decision of a Commission, it cannot refuse to go on doing business. Its only alternative is to resort to the courts. Its customers are not in this position but may refuse to patronize the company. If they do go on strike, however, they soon come to realize the importance and value of public utility service.

A strike by telephone subscribers against the Ontario & Wilton Telephone Company in Wisconsin, because the Commission had allowed the company to increase rates, started in February, 1928, but the patrons wanted telephone service and proceeded to organize the Union Coöperative Telephone Company. They applied to the Commission for authority to operate, but this authority has been denied.

The proposed system was said to be plainly intended as a substitute for the existing system. It involved the paralleling of practically all the lines of the Ontario & Wilton Telephone Company. The Commission could not see any justification for establishing such a paralleling and competing system, as the present company was standing ready and willing to serve all who should require service.

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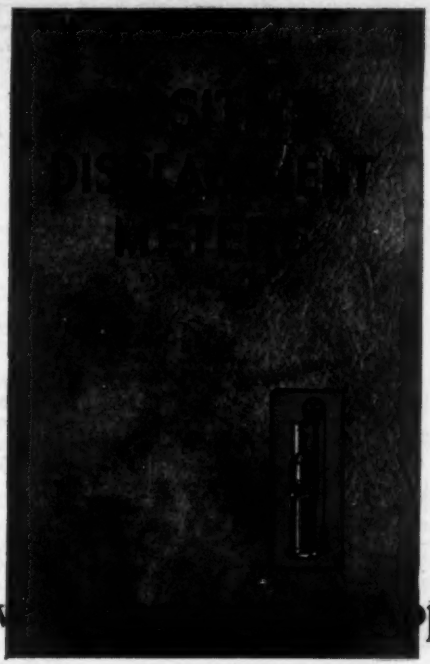

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OCTOBER

Reminders of Coming Events — **ALMANACK** — *Notable Events and Anniversaries*

16	**T^{h}**	The Georgia Railway & Power Co. was organized to develop the hydroelectric projects on the Tallulah and Tugalo rivers, 1911.
17	**F**	Disheveled passengers of *"The Flying Machine,"* JOHN MERCEREAU'S stage wagon, were delivered in N. Y. after its maiden journey from Philadelphia in 1½ days, 1771.
18	**S^{a}**	The first submarine telegraph cable line in the United States was laid between New York city and Governor's Island, 1842.
19	**S**	SANTOS DUMONT gave a spectacular demonstration of the possibilities of aerial transportation by circling the Eiffel Tower in Paris in a dirigible balloon, 1901.
20	**M**	¶ *MEMO: Make reservations today for accommodations in Charleston, S. C., for the annual convention of the State Commissioners that opens November 12, 1930.*
21	**T^{u}**	The cornerstone of the electric light industry was laid when EDISON demonstrated the first incandescent lamp after months of intense application; 1879.
22	**W**	COLLIS P. HUNTINGTON, founder and president of the Southern Pacific Railroad, was born; 1821. ¶ First radio message crossed the Atlantic, 1915.
23	**T^{h}**	A new epoch in communication was established when the first telegraphic message to span the continent was transmitted from N. Y. and delivered in San Francisco; 1860.
24	**F**	The worst financial panic that ever seized Wall street swept away billions of dollars in values of utility stocks, on "Black Thursday," 1929.
25	**S^{a}**	Thousands of awe-struck spectators watched the progress of the first Mississippi & Ohio steamboat plying between Pittsburgh and New Orleans, 1811.
26	**S**	The first rail was laid in the construction of the Southern Pacific Railroad—an undertaking described as "the biggest job in the world"; 1863. ¶ Erie Canal dedicated; 1825.
27	**M**	Bells were rung and horns were tooted in celebration of the first Interborough subway trains to run between City Hall and 137th street, New York; 1904.
28	**T^{u}**	CLERK MAXWELL, the English physicist, announced to the Royal Society his famous theory of ether wave propagation on which radio communication is based; 1864.
29	**W**	"Black Tuesday," following the "Black Thursday" of the preceding week, still further reduced the market values of utility securities, 1929.

"Progress is the law of life."
—ROBERT BROWNING

Charles Phelps Cushing

A Symphony in Steel

"The sight of such a monument is like continual and stationary music."

—De Staël